FILE COPY

TRANSCRIPT OF RECORD

In the Supreme Court of the United States

OCTOBER TERM, 1960

No. 78

QUINCY BULLOCK, PETITIONER

vs.

SOUTH CAROLINA

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF SOUTH CAROLINA

Petition for certiorari filed March 11, 1960

Certiorari granted May 2, 1960

The State of South Carolina
IN THE SUPREME COURT

APPEAL FROM DILLON COUNTY

HON. T. B. GRENEKER, JUDGE

THE STATE OF SOUTH CAROLINA, Respondent,

against

QUINCY BULLOCK, Appellant

TRANSCRIPT OF RECORD

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STATEMENT

The Appellant-Defendant, Quincy Bullock was indicted during the October, 1958, term of the Court of General Sessions for Dillon County on the charge of murder. He was brought to trial before the Honorable T. B. Grenoker, Presiding Judge of the Fourth Judicial Circuit and a Jury on the 24th day of October, 1958. A motion for continuance, made by defense counsel, was overruled. Upon arraignment the Defendant pleaded not guilty and the case proceeded to trial.

On the 25th day of October, 1958, the jury returned a verdict finding the Defendant "Guilty of Murder." The Defendant then made a motion for new trial. After argument, the motion was refused by the Court. The Court then sentenced the Defendant-Appellant to die in the electric chair on the 28th day of November, 1958. Notice of Intention to Appeal was duly served upon the Solicitor of the Fourth Judicial Circuit. Hence, this appeal.

THE STATE OF SOUTH CAROLINA,
County of Dillon
COURT OF GENERAL SESSIONS
October Term, 1958

THE STATE
vs.
Quincy Bullock

INDICTMENT FOR MURDER

ROBERT L. KILGO,
Solicitor.

J. W. MCMILLAN,
Foreman of Grand Jury.

The defendant Quincy Bullock having been charged with murder and having pleaded thereto and put him-

self for trial upon God and his country and having gone to trial, the jury charged with the trial of his case having returned a verdict of guilty of said charge of murder and the said Quincy Bullock having been arraigned for sentence and it having been demanded of him whether he had anything to say more than he had already said or had already been said in his behalf and the said Quincy Bullock having answered nothing further thereto,

Now it is the judgment and sentence of this Court that you the said Quincy Bullock be carried thence to the place whence last you came there to be kept in close and safe custody until you shall be removed therefrom in accordance with the law to the state penitentiary at Columbia, South Carolina at which place on the twenty-eighth day of November, 1958, at the place there provided within the state penitentiary between the hours of that day as designated by proper authorities the said Quincy Bullock shall suffer death by electrocution in the way and in the manner provided by law; and may the God of love and mercy and peace have mercy on your soul.

T. B. GRENEKER,
Presiding Judge.

October 25, 1958.

Received on October 28, 1958, Quincy Bullock.

GASPER S. ROGERS.

THE STATE OF SOUTH CAROLINA,
COUNTY OF DILLON.

At a Court of General Sessions, begun and holden in and for the County of Dillon, in the State of South Carolina, at Dillon Court House, in the County and State aforesaid, on the 3rd Monday of October, in the

year of our Lord one thousand nine hundred and fifty-eight.

The Jurors of and for the County aforesaid, in the State aforesaid, upon their oath, Present:

That Quincy Bullock, on the 3rd day of August, in the year of our Lord one thousand nine hundred and fifty-eight with force and arms, at Dillon Court House in the County of Dillon and State of South Carolina, in and upon one Carolyn Barfield Walshock feloniously, wilfully and of his malice aforethought, did make an assault, and that the said Quincy Bullock, her the said Mrs. Carolyn Barfield Walshock then and there feloniously, wilfully and of his malice aforethought with a 22 pistol did shoot, strike, penetrate and wound; giving to the said Carolyn Barfield Walshock thereby in and upon the head and body of her the said Mrs. Carolyn Barfield Walshock one mortal wound; of which said mortal wound the said Mrs. Carolyn Barfield Walshock then and there did die.

And so the Jurors aforesaid, upon their oath aforesaid, do say that the said Quincy Bullock her the said Mrs. Carolyn Barfield Walshock then and there in the manner and by the means aforesaid, feloniously, wilfully and of his malice aforethought, did kill and murder, against the form of the Statute in such case made and provided, and against the peace and dignity of the State.

ROBERT L. KILGO,
Solicitor.

Witnesses:

DR. W. V. BANFORD,
J. D. ROGERS,
JIMMIE HORNE,
H. A. ALLEN, S
ARTHUR QUIELS, S
J. D. ROGERS. S

VERDICT

Guilty of Murder.

J. L. HUBBARD,
Foreman.

TESTIMONY

Charge: Murder.

Trial held at the October 20, 1958, term of court at the Dillon County Court House, Dillon, S. C., before Hon. T. B. Greneker, Presiding Judge, and a jury. VERDICT: Guilty of murder.

Appearances

For the State: Hon. Robert L. Kilgo, Solicitor, Darlington, S. C.

Norwood Gasque, Esq., of the firm Gasque and Gasque, Latta, S. C.

For the Defendant: Herbert Britt, Esq., Dillon, S. C., and

W. B. Hawkins, Esq., Dillon, S. C. (By appointment of Hon. J. Woodrow Lewis, Resident Judge.)

Monday, October 20, 1958.

Sol. Kilgo: If your Honor please, case number nineteen on your Honor's docket, the case of The State against Quincy Bullock charged with murder. The State is ready to arraign the defendant; he is in court with his counsel.

The Court: All right. Let him come around.

(The defendant was arraigned; pleaded not guilty.)

Sol. Kilgo: If the Court please, the State is ready for trial and would be willing to set this case for trial at ten o'clock or nine-thirty Wednesday morning as agreeable with counsel for the defendant.

Mr. Britt: If the Court please, we have a motion we would like to make.

The Court: All right, sir.

Motion for Continuance—Mr. Britt: Mr. Hawkins and I, as I am sure the Court is aware, have been asked by Judge Lewis to serve as counsel for this defendant. We are trying to perform our duty as best we can.

The defendant was committed to the State Hospital shortly after his arrest and was just discharged by the hospital I believe week before last. In any event, he was made available to us last week, a week ago. Up until the time we had an opportunity to talk with the defendant, we were not aware of what defense, if any, he had to the charges against him. We did talk to him last week, and after talking to him we have been endeavoring to make some investigation along the lines indicated to be the defense. We feel that we need more time.

This alleged crime occurred in August of this year. This is th first time it has been brought to court for any disposition. The reason, or one of the reasons for wanting more time to prepare the case is that the last person who was with the deceased as we understand it, is in the hospital and is not able to be present in court. My information is from some of his relatives that he is expected to recover from the injuries received in the accident in which he was involved and will probably be able to come to court at the next term. In all fairness to the defendant, we think that, from what we have heard from him, that all witnesses should be present and available in court to be used.

Mr. Hawkins may have something to add.

Mr. Hawkins: Nothing else occurs to me, your Honor, except that I wholeheartedly concur in what Mr. Britt has stated. We feel that we have not had sufficient time to go into the matter in view of the

statements made to us by the accused; we think there are a number of matters that we should give considerable attention to and it is going to take more than just a few days to investigate them and to explore them in all their ramifications. We do feel that to give the accused the best representation that we can that we certainly should be afforded this opportunity to go into it as thoroughly as we think it is necessary.

I would like to say, too, at this time that we don't wish to waive a motion to change the venue by making this motion to continue the case. We haven't developed that phase yet in our own minds and we are not waiving anything as a matter of fact in behalf of the accused.

The Court: Well, of course, there is nothing before the court except the bare statement that counsel would like to have more time.

What do you say, Solicitor?

Sol. Kilgo: If the Court please, I don't have the copy of the letter here; I think it has been approximately thirty days since counsel were appointed to defend this defendant.

(To Mr. Britt) Is that about right?

Mr. Britt: Yes, sir, but during that time he was confined in the State Hospital in Columbia for examination and we had no opportunity to talk to him.

Sol. Kilgo: It has been approximately thirty days since they were appointed by Judge Lewis to defend this defendant. I don't have the file here, but it is my recollection that at the time they were appointed the State Hospital examination had been completed.

Mr. Britt: No, sir.

Sol. Kilgo: I may be wrong in that. However, his hospital examination has been completed some three or four weeks anyhow, and Mr. Britt and Mr. Hawkins

notified me some time after they were appointed that they would like to have the defendant brought back to Dillon County so that they could confer with him; he was being held in the State Penitentiary after his examination. We immediately brought the defendant back to Dillon County and turned over to them every statement and every bit of evidence we had which is our policy when counsel are appointed to represent a defendant. We gave them everything that we had and we feel that they have had ample time to prepare the defense of this defendant.

Now as to the witness, Mr. Horne, who was with the deceased at the time or shortly before she was killed or some time before she was killed, he is unavailable; that is correct. He is in the hospital and cannot be released; however, he could in no sense of the word be considered a defense witness and we have his full testimony given at the coroner's inquest which is, of course, available to defendant's counsel, and I am quite sure that the examination of his testimony will show that he could not in any sense be a defense witness. He is a State's witness, and we are willing and ready to go to trial without him.

The Court: I see no ground for a continuance.

By the way, I didn't even know that you had been appointed, Mr. Britt. I didn't even know that you had been appointed and I want to thank you for serving.

Sol. Kilgo: Both Mr. Britt and Mr. Hawkins were appointed, if the Court please.

The Court: And Mr. Hawkins. Yes, sir.

I can see no reason for granting the motion, gentlemen, as made.

Sol. Kilgo: Now, your Honor, we would like to set the case for Wednesday morning.

The Court: Of course, I can't force them before Thursday.

Sol. Kilgo: Yes, sir, I understand. I wonder what defendant's counsel would have to say to that?

Mr. Britt: We are not in a position, if the Court please, to waive any of the defendant's rights.

The Court: All right, sir.

Sol. Kilgo: We will set the case for nine-thirty Thursday morning.

Friday, October 24, 1958, 9 o'clock A. M.

Sol. Kilgo: If the Court please, in the case of The State against Quincy Bullock, the defendant has been arraigned and the State is ready.

Mr. Gasque is associated with the State and Mr. Britt and Mr. Hawkins represent the defendant by appointment.

The Court: The State is ready?

Sol. Kilgo: The State is ready.

The Court: Is the defendant ready?

Motion Continuance—Mr. Britt: If the Court please, the defendant would like to renew the motion for a continuance of this case based upon the affidavit which I present to the Court. (Hands up papers.) In support of the affidavit, we would like to submit to the Court and as part of the record, a letter of Judge J. Woodrow Lewis addressed to Mr. Hawkins and myself, the official report of the South Carolina State Hospital filed in the office of the Clerk of Court for Dillon County.

(Following is the affidavit of W. B. Hawkins and Herbert Britt, dated October 23, 1958, and bearing the caption of this case):

"Personally appears before me Herbert Britt and W. B. Hawkins, each, after being duly sworn, says: That on or about the 28th day of August, 1958, each of them received a letter from the Honorable J. Woodrow

Lewis, Resident Judge of the Fourth Judicial Circuit, appointing them to represent the defendant, Quincy Bullock, in the captioned matter, such letter being dated August 26, 1958. This was the first information that either of said deponents had relating to acting as counsel for the defendant, Quincy Bullock. Deponents accepted this responsibility and undertook to determine when they could contact the said defendant and arrange to commence preparations for the trial.

Deponents determined that on the same date that they had been appointed by the Court to represent the said defendant, Quincy Bullock, that the Honorable J. Woodrow Lewis, Presiding Judge in the Fourth Judicial Circuit, had issued an Order committing the defendant, Quincy Bullock, to the South Carolina Penitentiary for psychiatric examination. That pursuant to such Order the said defendant was, on or about (*sic.*) September 29th, committed to such portion of the South Carolina Penitentiary as has been designated as a part of the South Carolina State Hospital for observation and examination as to his sanity for a period of thirty (30) days and presumably continued therein until September 29th, 1958, when a report was issued by the Superintendent of the South Carolina State Hospital that psychiatric examination of the defendant, Quincy Bullock, did not reveal evidence of mental illness and the members of the medical staff making the examination diagnosed the said defendant as not insane. A copy of the Superintendent's report was received in the office of the Clerk of Court for Dillon County on September 30th, 1958, but such Clerk was not directed to inform deponents and did not so inform them. Some time around October 4th or 5th, deponents were in the office of the Clerk of Court and asked the Deputy Clerk if a report had been received

on the defendant, Quincy Bullock, from the South Carolina State Hospital. Deponents were then shown the letter and became aware of the findings of the medical staff of the said hospital.

Deponents were both of the opinion that it would be improper to attempt to interview the defendant, Quincy Bullock, while he was in the custody of the authorities of the South Carolina State Hospital and undergoing examination with regard to his sanity, and, therefore, made no attempt to confer with the said defendant until the conclusion of such psychiatric examination.

Presumably defendant was returned to the South Carolina State Penitentiary in Columbia, S. C., and deponents on October 7th, 1958, wrote to the Honorable Robert L. Kilgo, Solicitor for the Fourth Judicial Circuit, to arrange for the defendant, Quincy Bullock, to be returned to Dillon County in order that they would have an opportunity to interview him and prepare for his trial before the term of Court commencing on October 20th, 1958. As deponents began to confer with the said defendant, they found him to be highly suspicious of them and reluctant to talk to them or to accept deponents as his attorneys. The defendant wished attorneys located in another city, and members of his family had to be contacted to determine whether or not such attorneys could be obtained. After report was made relating to such attorneys that such could not be made available, defendant began to give the deponents some information and on or about October 16th, 1958, gave deponents information which wholly and absolutely repudiated the alleged confession made by him to various persons and stated that he was nowhere near the scene of the alleged crime at the time that it was alleged to have been committed.

Deponents, on receipt of this information given by the defendant, felt obliged to attempt to get the facts from other sources in an effort to substantiate the defendant's statements to them, but due to the short period of time, two days before Court was to convene, and in the press of the preparation for other trials, for which deponents had received fees to undertake, deponents could not adequately prepare this defendant's case.

Deponents, although they have tried to confer with the defendant even during the sitting of this Court, have been unable to give it sufficient time due to other trials and cases in which deponents have been engaged.

Deponents both sincerely believe that, for the reason given as aforesaid, they have not had sufficient time to adequately prepare the captioned case for trial and such being of a most grave nature it would be an injustice to the defendant, Quincy Bullock, to proceed with his trial during this term of Court.

/s/ W. B. Hawkins,
/s/ Herbert Britt,
Attorneys appointed by the Court for the defendant, Quincy Bullock.

Sworn to before me this
23rd day of October, 1958.

/s/ James R. C. Calhoun (Seal)
Notary Public for South Carolina."

(Envelope addressed to Mr. W. B. Hawkins, Attorney at Law, Dillon, S. C., bearing the return address J. Woodrow Lewis, Judge Fourth Judicial Circuit, Darlington, S. C., and also bearing postmark Darlington, S. C., August 27, 1958, 2 P. M. was among the

papers handed up to the Court. Also the following letter):

J. Woodrow Lewis
Judge Fourth Judicial Circuit
Darlington, S. C.

August 26, 1958.

Mr. Herbert Britt
Attorney at Law
Dillon, S. C.

Mr. W. B. Hawkins
Attorney at Law
Dillon, S. C.

Re: State v. Quincy Bullock

Dear Sirs:

The defendant in the above matter is charged with murder and the Solicitor has advised me that it will be necessary to have counsel appointed to represent the defendant.

I am hereby appointing you to represent the defendant Quincy Bullock in the above case.

With regards, I am

Yours very truly,

/s/ J. Woodrow Lewis,
J. Woodrow Lewis.

JWL:jf

CC: Solicitor Robert L. Kilgo,
Darlington, S. C.

Honorable G. Duncan Bellinger,
Columbia, S. C."

(The following copy of a letter—being a signed copy—bearing the notation "FILED, 1958 SEP 30 P M 1 03, DILLON COUNTY, S. C. C. C. THOMAS, JR., CLERK OF COURT" was also handed up along with the affidavit):

"SOUTH CAROLINA STATE HOSPITAL
COLUMBIA, SOUTH CAROLINA

William S. Hall, M.D.
Superintendent

September 29, 1958.

Mr. Robert L. Kilgo
Solicitor, Fourth Judicial Circuit
Darlington, South Carolina

In Re: Quincy Bullock

Dear Sir:

In accordance with the order of the Honorable J. Woodrow Lewis, Presiding Judge, Fourth Judicial Circuit, COURT OF GENERAL SESSIONS, County of Dillon, dated August 26, 1958, I respectfully submit the following report on the mental condition of Quincy Bullock, who was admitted to the South Carolina Penitentiary for psychiatric examination.

Physical examination is essentially negative.

Psychiatric examination does not reveal evidence of mental illness (insanity), and the members of the

medical staff making the examination diagnosed Mr. Bullock as not insane.

Yours very truly,

WILLIAM S. HALL, M.D.,
Superintendent.

By /s/ SOL B. MCLENDON, M.D.,
SOL B. MCLENDON, M.D.,
Clinical Director,
State Park Unit.

SBMCL:mp

CC: Mr. C. C. Thomas, Jr.
Clerk of Court
Dillon, South Carolina

CC: Mr. Jasper D. Rogers
Sheriff, Dillon County
Dillon, South Carolina

CC: Colonel W. M. Manning, Superintendent
South Carolina Penitentiary
Columbia, South Carolina"

(The original of the following letter to Sol. Kilgo was handed up):

HERBERT BRITT
Attorney at Law
Dillon, South Carolina

October 7, 1958.

Solicitor Robert L. Kilgo
Darlington, South Carolina

Re: The State v. Quincy Bullock

Dear Bob:

In order to properly represent the above defendant, we think it necessary that we be given an opportunity to interview him before the term of Court commencing October 20. It is our understanding that the defendant is in the State Penitentiary at the present time. As you know, we are appointed by the Court in this case and no travel expense has been furnished to us. It will, therefore, be appreciated if you will request the Sheriff of Dillon County to bring the defendant back to the Dillon County Jail several days prior to the convening of the General Sessions Court.

In the interest of justice, I am sure that you will furnish us with a copy of the alleged confession signed by the defendant. We would like to have a copy of this statement before interviewing the prisoner.

Very truly yours,

/s/ Herbert Britt,
Herbert Britt,

/s/ W. B. Hawkins,
W. B. Hawkins.

HB/ldw"

(A copy of the following letter was handed up):

61 "October 8, 1958.

Sheriff J. D. Rogers,
Dillon, S. C.

Re: State v. Quincy Bullock

Dear Sheriff:

As you know, Mr. Britt and Mr. Hawkins have been appointed by the Court to represent the above named defendant at his trial. They have requested an opportunity to interview the prisoner before court time. I
62 would therefore suggest that you bring the prisoner back to Dillon County Jail at your earliest convenience, so that they will have full opportunity to confer with him and prepare his defense.

It is also customary where counsel are appointed, to make available to them all statements, confessions and evidence in our hands, inasmuch as they are rendering a service to the State without compensation.

With kindest regards.

Yours sincerely,

63 ROBERT L. KILGO,
Solicitor Fourth Circuit.

RLK/j

CC. Mr. Herbert Britt
Mr. W. B. Hawkins
Dillon, S. C."

The Court: Mr. Solicitor, do you have a copy of the affidavit?

64 Sol. Kilgo: Yes, your Honor.

The Court: Is there anything else, Mr. Britt?

Mr. Britt: I am sure your Honor is familiar with the recent case of *The State v. Livingston?*

The Court: Yes, sir, the Orangeburg case.

Mr. Solicitor, what do you say as to the motion for a continuance?

Sol. Kilgo: If the Court please, according to the records that I have, Mr. Britt and Mr. Hawkins were notified or appointed by Judge Lewis on August 26th. Admittedly the defendant was at the State Hospital for examination then. Now on September the 29th the State Hospital issued its report concerning the condition of the defendant. Now that was over a month after counsel were notified of their appointment. On October the 7th, defendant's counsel wrote me to the effect that they wished to confer with the defendant and that he was in the State Hospital and requested that he be brought back to Dillon County. That letter was October 7th from Mr. Britt to me, and I have a copy here of my letter to him and Mr. Hawkins or rather a letter to Sheriff and copies to them on October 8th, the next day, directing not only that the defendant be brought from Columbia to Dillon to confer with his attorneys but also, if your Honor will note, in view of the fact that they are appointed that they be given full access to the defendant, that they be given every statement that we have, that they be given the benefit of every bit of evidence that we have in the case, which is our custom when attorneys are appointed.

Now that letter was mailed by me on October 8th, the next day after the letter was forwarded from Dillon County with the request for the defendant's presence. I assume, of course, that the sheriff did produce the defendant and he has been available to defendant's counsel since that time along with all the evidence we have in the case.

Now as to the preparation, the affidavit of counsel does not show that there is any particular evidence
69 that they need to investigate. Now your *Livingston case*, as I understand it, there was a showing at the time that the defendant in that case had a medical record involving injuries in Korea and a witness, I believe in the state of Oklahoma or some foreign state, whom counsel did not have an opportunity to interview. There is no such showing as that here and no intimation that there is any evidence anywhere that demands that they give more time to the investigation.

We oppose the motion and think counsel has had
70 time and he should go to trial.

Mr. Hawkins: May it please the Court; in addition, as we indicated in our affidavit, we first had to more or less win the confidence of the accused; as we state therein, he had in his mind that he desired counsel from another state, and we first had to exhaust the possibilities of his obtaining such counsel before he would even indicate to us what his defense would be.

Sol. Kilgo: If the Court please, I don't want to interrupt Mr. Hawkins, but I don't want to get in a po-
71 sition that they can move for a continuance on the ground that the jury have heard this motion.

The Court: All jurors will please stand. (Members of the jury panel stand.) Gentlemen, will you please go into the judge's office and remain there for a few minutes. All jurors. (All members of the jury panel comply.) Are there any other jurors in the court room now? If so, let it be known. (There were none.) All right, Mr. Hawkins.

Mr. Hawkins: And after he did indicate to us, your Honor, what his position would be, it was absolutely
72 different from what we had anticipated. And in view of the fact further that he was confined in the jail and

could not assist in any way other than to give us some indication of who his witnesses may be and where they live and by first names and things of that nature it was mandatory that we check into it ourselves and endeavor to dig up and produce witnesses that were extremely difficult and almost impossible to find. And we feel that under the circumstances with that in view that we should be allowed as much time as is reasonable to endeavor to find any witnesses that we can. 73

The Court: Do you have the names of any witnesses you want and which the court could help you to get?

Mr. Hawkins: We gave the sheriff, your Honor, the names of the only three we could ascertain from him and I am sure the sheriff will produce them today; but we feel there may be others to be produced that will take care of a period of time which we feel is necessary to cover to substantiate his statement. And as we indicate further in the affidavit, we have had no opportunity this week to do anything whatsoever on the case, particulary Mr. Britt who has been tied up in the last two cases preceding this one. 74

The Court: Of course, the easy thing for me to do is to continue the case, but I can see no reason for continuing the same. I rather think I would abuse my discretion if I did continue it. And I am familiar with the holdings of the Court in the *Livingston case* which is the law but with which I do not agree, and that is a divided opinion. 75

Mr. Hawkins: Another thing in that case, your Honor, which I think is in our favor: counsel in that case were employed and certainly we are not so employed and were appointed by the Court.

The Court: I realize the ability of counsel who are representing the defendant in this case: I know them 76

JOHN BOWEN

from long experience. I shall have to order the case
77 for trial.

Let all these papers be put in the record. (Hands stenographer the affidavit and four letters and one envelope—see Pages 6-14 of this transcript.)

Sol. Kilgo: If the Court please, the State would like to have the jurors put on the *voir dire*.

The Court: All right, sir.

(Recess.)

The Court: Is the State ready to proceed?

Sol. Kilgo: The State is ready.

78 The Court: Is the defense subject to their motion ready to proceed?

Mr. Britt: Yes, sir.

(Preliminary arraignment completed. Jurors selected on the *voir dire*.)

The Court: Gentlemen, go into the judge's office and elect a foreman.

(Jury retires and returns; J. L. Hubbard takes the foreman's seat.)

(Jury sworn.)

79 (Arraignment concluded.)

Mr. JOHN BOWEN, sworn to tell the truth, the whole truth and nothing but the truth.

Direct Examination

By Sol. Kilgo:

Q. Mr. Bowen, where do you live?

A. Out on the Old Latta Highway just beyond the graveyard.

Q. When you speak of "graveyard," what graveyard is it?
80

A. Well, the cemetery.

JOHN BOWEN

Q. Is that the Mount Holly graveyard?
A. Yes, sir.
Q. How far is your home from the graveyard?
A. About five hundred yards, I guess.
Q. And as you go from Dillon to Latta, is it on the right or the left?
A. It is on the right.
Q. Were you at your home on the night of August 2nd and the early morning hours of August 3rd?
A. Yes, sir.
Q. Did anyone come to your home during that evening?
A. Yes, sir, Sunday morning.
Q. What time?
A. It was about twenty-five minutes to two o'clock.
Q. Twenty-five minutes to two o'clock?
A. Yes, sir, something like that.
Q. And who came there?
A. Jimmy Horne.
Q. Were you asleep when he got there?
A. Well, I was asleep when the dog started barking.
Q. And after—were your dogs barking?
A. Yes, sir.
Q. After your dogs barked, what happened, if anything?
A. Well, the dog woke me up and about the time I woke up, he run up on the front porch.
Q. Was he walking or running?
A. Well, he sounded like he was running. I didn't see him, but he sounded like he was.
Q. What did he do when he came up on your porch?
A. Well, I turned on the porch light.
The Court: Don't say anything that he said.
The Witness: Don't say anything that he said?

JOHN BOWEN

The Court: No, sir.

85 Q. You turned on the porch light and what did you see?

A. I saw Jimmy Horne on the front porch.

Q. Was he at your door?

A. Yes, sir.

Q. Was he calm or excited?

A. Well, he was excited.

Q. Did he indicate to have—did he appear to have walked to your home or to have run to your home?

A. Well, he seemed to be—he must have run be-

86 cause he was all out of breath.

Q. Was there anything peculiar about his arm or shirt or clothing that you noticed?

A. Well, I noticed blood on his left shoulder.

Q. Blood on his left shoulder?

A. On his shirt.

Q. All right. Did he say anything to you? Now don't say what he said. Did he say anything to you?

A. Yes, sir.

Q. What did he say?

87 Objection by Mr. Britt: We object if the Court please.

The Court: You are going to ask him what he said?

Sol. Kilgo: Yes, sir.

The Court: The objection is sustained.

Q. As a result of what he said, what, if anything, did you do?

A. Well, we got in the car and proceeded.

Q. (Interrupting) Mr. Bowen, excuse me just a minute. Be careful—the judge has ruled not to say anything that he said; it is not admissible in the tes-

88 timony. So be careful not to say anything he told you.

But you and he got in the car. Is that correct?

JOHN BOWEN

A. Yes, sir.

Q. In your car?

A. Yes, sir, and we were going.

Q. (Interrupting) Did you do so quickly or leisurely?

A. Yes, sir, quickly.

Q. When you and Jimmy Horne got in your automobile, had you determined what you were going to do when you got in your car?

A. No, sir, I hadn't. We were going to the police.

Q. That is what I meant.

A. (Interrupting) To the police station.

Q. You had decided to go to the police?

A. Yes, sir.

Q. Were you in a hurry?

A. Yes, sir, we were in a hurry.

Q. Did anyone else go in the automobile with you?

A. No, sir.

Q. I have forgotten whether you stated or not. Was there anything peculiar about his shirt or arm?

A. Well, there was blood on his shirt. And he pulled his shirt open and showed me where he was shot.

Q. When he pulled his shirt open, what did you see?

A. I just seen the blood on his shoulder.

Q. And you and he went in what direction in your car?

A. Towards Dillon.

Q. To Dillon?

A. Yes, sir.

Q. And did you get to Dillon?

A. No, sir, just as we crossed the Seaboard Railroad, we met Officer Dick Bowen.

Q. You met Officer Dick Bowen?

A. Yes, sir.

JOHN BOWEN

Q. And when you saw him, did you make a report to him, you or Jimmy Horne?

A. Yes, sir.

Q. And after talking with Dick Bowen, what did you do?

A. Dick Bowen got in his police car and went on down there, and we turned around and followed him.

Q. Where did you go?

A. To the cemetery.

Q. The Mount Holly Cemetery?

A. Yes, sir.

Q. That would be between your home and Dillon?

A. Yes, sir.

Q. In Dillon County?

A. Yes, sir.

Q. What did you do when you got to the cemetery?

A. Well, they pulled into the cemetery; they got out and started looking for her and calling her.

Q. Who were you looking for and calling?

A. Carolyn.

Q. Carolyn who?

A. Carolyn Barfield.

Q. Is that Carolyn Barfield Wolshock?

A. Yes, sir.

Q. And you were looking in the cemetery for her?

A. Yes, sir. And up and down the railroad and the road.

Q. And were the four of you looking for her?

A. Well, by the time we got there, there were some more officers.

Q. When you got there, were the other officers there?

A. No, sir, there wasn't when we got there.

Q. Did other officers come up shortly after you?

A. Yes, sir.

JOHN BOWEN

Q. How long?

A. Well, maybe just a few minutes. I don't know how long, but it wasn't long.

Q. And what, if anything, did the entire crowd of officers and those present undertake to do?

A. Well, they started searching.

Q. Searching for Carolyn Barfield Wallstock?

A. Yes, sir.

Q. Was she being called?

A. Well, she was being called.

Q. Did you ever hear her answer?

A. No, sir.

Q. Did you search the cemetery?

A. Yes, sir, they searched the cemetery.

Q. Did Sheriff Rogers arrive there?

A. Yes, sir.

Q. About how long later was that?

A. Well, I would't say, but it was shortly.

Q. Did Mr. Harley Allen, the deputy sheriff; arrive?

A. Yes, sir.

Cross Examination

By Mr. Britt:

Q. Mr. Bowen, did you know Jimmy Horne?

A. No, sir.

Q. You don't know whether that was the person came to your house or not?

A. Well, yes, sir, I knew him after.

Q. (Interrupting) But before that time?

A. No, I didn't know then; I didn't know who he was.

Q. And you didn't know Mrs. Carolyn Barfield?

A. No, at that time, I didn't.

Q. Never have known her?

A. No.

JOHN BOWEN

Q. Mr. Bowen, your house is located just beyond Maple Swamp?

A. Yes, sir. The first house on the right past the swamp.

Q. The first one on the right just beyond Maple Swamp. And that is about how far from Mount Holly Cemetery?

A. Well, about five hundred yards, something like that.

Q. Coming back to town, the way you did, did you pass by the same place?

A. Yes, sir.

Q. Mount Holly Cemetery?

A. Yes, sir.

Q. Did you stop?

A. No, sir, we didn't stop.

Q. You don't know, Mr. Bowen, whether anybody was down there in the cemetery or not?

A. No, I couldn't say there was anybody down in the cemetery.

Q. But in any event, you did not stop and passed right by the place on the way back?

A. No, sir, we didn't stop.

Q. Did you slow up?

A. Yes, sir, we slowed up.

Q. But you didn't stop?

A. No, sir.

Q. Did you have your gun with you?

A. No, sir, I didn't have a gun.

Mr. Britt: That's all.

HARLEY ALLEN

Mr. HARLEY ALLEN, sworn to tell the truth, the whole truth and nothing but the truth. 105

Direct Examination

By Sol. Kilgo:

Q. Mr. Allen, in the early morning hours of August 3rd this year did you receive a radio call?

A. Yes, sir.

Q. As a result of that call, what did you do?

A. Went to the cemetery.

Q. What time did you arrive at the cemetery?

A. Well, I would say approximately one-thirty or a little bit after. 106

Q. What did—was anyone else there when you arrived?

A. Yes, sir.

Q. Do you recall who all was there?

A. Well, Mr. Bowen here who just testified, and Mr. Dick Bowen, sergeant on the police force, was there when we arrived.

Q. Was Jimmy Horne there?

A. Yes, sir. 107

Q. Did you know Jimmy Horne?

A. Yes, sir.

Q. Who went there with you?

A. Mr. Anderson, W. B. Anderson.

Q. After you got there, what did you find?

A. Well, we found this '56 Oldsmobile automobile parked up in the cemetery.

Q. About how far from the highway was that?

A. I would say it was approximately sixty yards or sixty-five. 108

Q. And it was facing which way?

HARLEY ALLEN

A. Well, it looked like it backed in and facing out. I would say at that time it was standing in the direction facing Dillon County Jail from the cemetery.

Q. Was the doors open or closed?

A. The doors was open.

Q. All of them?

A. Yes, sir. I mean the two back doors.

Q. The two back doors? Did you examine the automobile?

A. I did, sir.

Q. What did you find?

A. I found a lady's pocketbook, a lady's pair of shoes, and a man's pair of shoes. The lady's pocketbook was setting up on the dash of the car, and the shoes was in the back seat on the floor.

Q. What did you then do after examining—or just a minute. Did you find anything unusual about the automobile or window?

A. Yes, sir. In the back glass on the right-hand side, it looked like a bullet hole through the back and on the left-hand back glass on the corner it was shattered just a little bit.

Q. Was that on the left as you face toward the front of the car?

A. Facing the back of the car. Standing at the back.

Q. Facing the back looking to the front?

A. Yes, sir.

Q. It would be on your left?

A. The bullet hole would be on the right.

Q. How about on the left?

A. Well, there was a place in the glass about as large as your hand on the left.

Q. The glass had a hole in it on the right side and on the left side?

HARLEY ALLEN

A. Yes, sir, that looked like a bullet hole on the right and maybe the percussion or something had knocked—shattered that shattered glass. 113

Q. What about on the left?

A. Well, that is the one on the left I am talking about; facing from the back on the left-hand side would have a hole in it about the size of your hand.

Q. What I am getting at, Mr. Allen; probably I don't follow you. Were there two holes in the glass?

A. Yes, sir.

Q. One on the right as you looked toward the front of the car? 114

A. Yes, sir.

Q. And is that the hole that looked like a bullet hole?

A. Yes, sir.

Q. And on the left as you looked toward the front of the car, what kind of hole was that?

A. Well, it looked like maybe the percussion of the bullet or whatever hit the glass.

Objection By Mr. Britt: If the Court please, if he would just describe what he saw.

The Court: That's right. 115

Mr. Britt: Not speculate what caused it.

Q. On the left, what did you observe as to the left-hand side of the glass?

A. Well, there was a hole in it about the size of your hand.

Q. Was it jagged or even? Round, square, or what shape?

A. Well, it was just more or less shattered there.

Q. Was the glass out or just shattered?

A. Well, there were a small hole in it. 116

Q. Sir?

A. Yes, sir.

HARLEY ALLEN

117 Q. What did you do—after examining the car, what did you and the others undertake to do?

A. Well, after examining the car carefully and walking over the cemetery, we found part of a lady's underwear.

Q. When you left the car and started walking around the cemetery, what were you attempting to do?

A. Well, we were searching for Carolyn Barfield.

Q. Searching for Carolyn Barfield?

A. Yes, sir. Wolshock.

Q. Now what did you say you found?

118 A. Part of a lady's underwear.

Q. And where was that?

A. That was about twenty-five steps from the car westward from where the car was parked over in the cemetery.

Q. West? Would that be toward the paved road?

A. Yes, sir.

Q. And that was you say a lady's pants?

A. Yes, sir, lady's pants.

119 Q. All right. I hand you a picture and ask you what that is?

A. That is the picture of the car that was down there; that is a '56 Oldsmobile that Jimmy Horne was driving registered in his stepfather's name.

Q. Where is that picture taken?

A. In the cemetery.

Objection By Mr. Britt: Now if the Court please, we move to strike the reference to, "This is Jimmy Horne's car registered in his stepfather's name."

The Court: Unless he knows of his own knowledge.

120 Q. Do you know who the car belonged to?

Mr. Britt: Of your own knowledge.

Appeal from Dillon County

HARLEY ALLEN

A. Well, the reason I know that, there come a man up here investigating. 121

Objection By Mr. Britt: Now if the Court please—

The Court: I didn't hear his answer.

Mr. Britt: He is not answering that.

The Witness: I am fixing to answer by my knowledge of knowing who the car belonged to.

Mr. Britt: Well, he can state whether or not of his own knowledge he knows.

Sol. Kilgo: It doesn't make any difference.

Q. Is this the car that you saw in the cemetery when you arrived that night? 122

A. Yes, sir.

Q. Where is that picture taken?

A. At the cemetery.

Q. At the place it was that night?

A. Yes, sir.

Q. When was it taken?

A. The next day.

Q. Are the windows in the back of the car are they in the same condition you saw them in that night?

A. No, sir. 123

Q. What is the difference?

A. Well, on the right here there was a small bullet hole; driving this car in, some of this glass fell out. On both sides, there is more glass out. There was just a small hole through on the right standing at the back looking at the car.

Exhibit Offered By Sol. Kilgo: The State offers in evidence picture of automobile.

Objection By Mr. Britt: The defense objects on the ground the witness stated the automobile is not in the same condition as at the time he saw it.

The Court: The objection is overruled.

HARLEY ALLEN

(Photograph of Oldsmobile marked State's Exhibit No. 1.)

Q. Mr. Allen, when you found this article of lady's underclothing about twenty-five feet from the car—

A. Yes, sir.

Q. What did you and the others do then?

A. Well, at that time, I sent Mr. Anderson and Mr. Moody after Sheriff Rogers, and I called for the dogs at that time, and we kept searching.

Q. What were you searching for?

A. Carolyn Barfield.

Q. Did you at any time during that night find any other article of clothing or tracks or path leading away from the cemetery?

A. Well, at that time of the night, we found a little blood on the right-hand side of the car.

Q. On the ground?

A. Yes, sir. Later on, in the early morning, we found some blood on the highway, the Old Latta Highway; spots of blood.

Q. Was it daylight when that was found?

A. Just about light good.

Q. And how far was that blood on the highway from the position the automobile was found in?

A. Well, I haven't measured it, but I would approximately say seventy-five to one hundred yards.

Q. All right. The next morning about daylight you found some blood about the—on the edge of the paved highway you say about seventy-five yards from the car?

A. Seventy-five or one hundred. I didn't measure it.

Q. What next did you find?

A. Well, on up this old right-of-way where they put down this sewerage line—

HARLEY ALLEN,

Q. (Interrupting) Did that right-of-way run—where did that right-of-way run from? 129

A. It runs up the branch I would say northwestward from the cemetery.

Q. How near was the—did it intersect the road? The right-of-way?

A. Yes, sir.

Q. And how near was that to the blood spot where it intersected the road?

A. Well, it was just a few feet of it.

Q. And what did you find in connection with the right-of-way? 130

A. Well, on up the right-of-way, I didn't find them, but I was present with Mr. Hainer when he found a slip; I would say it is approximately a hundred and fifty yards up there.

Q. A hundred and fifty yards up from the paved road?

A. Yes, sir.

Q. You found a sli, What condition was the slip in?

A. Well, it was damp; looked like it had blood on it and looked like it had a bullet hole through it. 131

Q. Had a hole in it?

A. Yes, sir.

Q. Was it a hole such as could have been made by a bullet?

A. Yes, sir.

Q. Was there blood on it?

A. Yes, sir.

Q. And that was a hundred and fifty yards up the right-of-way?

A. A hundred and fifty or seventy-five. 132

Q. What next did you find? Or was found?

HARLEY ALLEN

A. Well, at that time, I turned around and come back
133 to the cemetery and picked up my car.

Q. And what did you do?

A. Well, I went around to meet them on the other side.

Q. To meet who?

A. Mr. Quick, Mr. Wayne Hamer, Sheriff Rogers. I believe Mr. Anderson went with me around there.

Q. On the other side of what?

A. And some other officers.

Q. On the other side of what?

134 A. The other side of this particular swamp.

Q. Had the right-of-way led into Maple Swamp then?

A. Yes, sir.

Q. And you went in your car around to the other side?

A. I went around and come through Dillon and out this (indicating west on Main Street) way.

Q. And that was daylight Sunday morning?

A. Sunday morning.

135 Q. And what next happened?

A. Well, we searched around out there in the woods approximately—well, practically all the morning.

Q. How many people approximately had joined the search during Sunday morning?

A. Well, there was quite a few, but that afternoon or about eleven o'clock, the sheriff organized a searching party to take it in widths. We felt like her body—

Q. (Interrupting) Moved across the entire width of Maple Swamp?

A. Yes, sir.

136 Q. And how far was that point or that area from the cemetery?

HARLEY ALLEN

A. It is close to a mile and a quarter.

137 Q. And why were you searching in that area of Maple Swamp?

A. Well, we had found evidence that she was going that way.

Q. And what was that evidence?

A. Well, her slip and part of her underwear and some tracks that corresponded—

Q. (Interrupting) What kind of tracks did you find?

A. One barefoot track and one small track, a man track.

138 Q. One small man's track and a barefoot track?

A. Yes, sir.

Q. Was the barefoot track smaller than the man's track?

A. Yes, sir.

Q. Was the smaller tracks—were the tracks made by the (pauses while train goes by)—

Mr. Allen, come around here just a minute, please. (Witness leaves stand.) Are you familiar with this sketch?

A. Yes, sir.

139 Q. Is that a true representation of the cemetery and Maple Swamp?

A. And the Latta Highway.

Objection By Mr. Britt: If the Court please, we submit the solicitor is displaying a sketch he hasn't offered in evidence.

Exhibit Offered By Sol. Kilgo: The State offers this sketch in evidence if the Court, please.

The Court: Not made to scale?

Sol. Kilgo: Not made to scale.

140 (Sketch of scene marked State's Exhibit No. 2.)

(Jury retires; Recess. Jury returns.)

HARLEY ALLEN

(Polling of the jury waived.)

141 Mr. Britt: If the Court please, the defendant says he can't hear the witness. Would there be any objection to letting him sit nearer?

The Court: No, sir, let him come right up here.

(Defendant's chair is moved directly in front of the Clerk's desk.)

HARLEY ALLEN resumes stand.

By Sol. Kilgo.

Q. Mr. Allen, I hand you a photograph of an Oldsmobile and ask you if that is the car you saw at the
142 cemetery?

A. Yes, sir, and that is pretty near the size of the holes that was in it except this here might be a little larger.

Q. Is that nearer the condition of the car and the window back there than Exhibit No. 1?

A. Yes, sir.

Exhibit Offered By Sol. Kilgo: Your Honor, we would like to substitute this for Exhibit No. 1; this is a better picture of the car.

143 Objection By Mr. Britt: My objection is the same. (Page 32, L. 9.)

The Court: He has identified the car.

(Photograph of Oldsmobile marked State's Exhibit No. 3. State's Exhibit No. 1 was not withdrawn.)

Q. Mr. Allen, I hand you an article and its contents and ask you what it is and if you have ever seen it before?

A. Yes, sir, I have seen this before. It has been in my possession up until this morning.

Q. Where did you see it first?

144 A. Immediately after I got to the cemetery while examining the automobile.

HARLEY ALLEN

Q. Where was [illegible]
A. Setting up on the dash.
Q. Of the Oldsmobile?
A. Yes, sir.
Q. Was there any other—what is it?
A. It is a lady's pocketbook.
Q. And the contents that are in it, were they in it that night?
A. Yes, sir, just exactly like it is now.
Q. Was there any other lady's handbag or pocketbook in the car?
A. No, sir.

Exhibit Offered For Identification—Sol. Kilgo: The State offers this handbag for identification.

(Slip of paper marked State's Exhibit No. 1 for identification placed in handbag.)

Q. Now, Mr. Allen, would you come around and examine the sketch? (Witness goes to sketch.) I believe you have stated that this truly represents Mount Holly Cemetery and the surrounding area?
A. That's right.
Q. Speak out so the jury can hear.
A. That's right.
Q. Now, Mr. Allen, start on this sketch and tell us first what this is here?
A. This is the drawing of Mount Holly Cemetery and the roads leading in and the circle.
Q. And this is the road?
A. That turns in at the main gate.
Q. That turns into the cemetery and the road makes a circle thus (indicating on sketch)?
A. Yes, sir.
Q. And here is a red mark marked "No. 2", what does that represent?

HARLEY ALLEN

A. Indicates the car was parked there.

149 Q. The Oldsmobile car that you spoke of?

A. Yes, sir.

Q. Now here is a long red line running from the Latta paved highway to a point in the woods in a straight line. What does that represent?

A. This here represents the sewerage line.

Q. The sewer line. Is that cleared?

A. Well, there is some bushes growed up in it, but it is open more or less.

150 Q. It is a clearing through the woods?

A. Yes, sir.

Q. About how wide is it?

A. Well, I would say it is approximately twenty feet wide altogether.

Q. Now that line comes to a point and turns back and ends at the edge of a cotton field you have marked. What does that line represent?

A. That is—this line, I would like to explain.

Q. All right. Go right ahead.

151 A. There is a ditch here on this side. A pretty deep ditch; not too awful deep, but it is pretty deep. And it's coming out of this cemetery. I found some blood spots back up here a little bit off the road back up this way; blood spots in the ditch.

Q. Speak up loud now.

A. And on across the highway right along in here, we found some more blood spots. So we taken this route on up here until Mr. Hamer found the slip. I turned around and come back and got my car (inaudible.)

152 (Stenographer asks witness to repeat.)

A. I turned around and come back and got my car.

HARLEY ALLEN

Objection By Mr. Britt: If the Court please, we object to his saying what the spots were. He can describe the spots they found. 153

A. Well, they looked like blood then.

Q. What color spots were they?

The Court: May I have your objection, please, sir?

Mr. Britt: We object to his saying "We found blood spots on the ground." What he saw was several hours after this alleged crime. He can only describe what he saw and not give his opinion what it was.

The Court: Yes, sir. I think he can testify what he found; how it looked. 154

Q. What color were the spots you refer to?

A. They were red like blood.

Q. Red like blood?

A. Like blood spots. And the old log across this thing here looked like where somebody had fell over here and that is where I turned around and came back. And this leads on up here and cuts back to the swamp. There is a cotton patch and a corn field over there on that side.

Q. Were there any tracks along this route other than—any human tracks? 155

A. Well, in the open places, you could see them.

Q. What type tracks were they?

A. Well, there were a small shoe, I would say approximately an eight and a half, and a barefoot track.

Q. Do I understand those tracks pretty well followed the line of the sewer line?

A. Yes, sir.

Q. Where did you go when you went back to your car? 156

A. I come around and got my car and we went up and come up here and down Mr. Cecil Tyler's. And I

HARLEY ALLEN

157 talked with her some and then I got in the woods and a brother and Mr. Anderson and myself, we went up in the swamp on this side to where Mr. Quick and the sheriff and Mr. Hamer (inaudible.)

(Stenographer asks witness to repeat.)

A. The sheriff and Mr. Wayne Hamer and the boy with the dogs.

Q. Where did you see them?

A. They were in this corn field at that time.

Q. This corn field up here?

A. Yes, sir.

158 Q. And what time on Sunday was that?

A. That was approximately eight-twenty.

Q. Now you testified a while ago that the sheriff organized a party to go across in a line across the width of Maple Swamp. When was that?

A. Well, that was after dinner. We had a lot of people searching but I mean he organized a party, the sheriff did, of the National Guard to cover this whole area and (inaudible.)

(Stenographer asks witness repeat.)

159 A. This whole area and the cotton field and the corn field.

Q. As a result of that search, was the body of Carolyn Barfield Wolshock found?

A. Yes, sir.

Q. What time was it found?

A. Approximately four o'clock or four-fifteen.

Q. Was that P. M.?

A. Yes, sir.

Q Sunday afternoon?

160 A. Yes, sir.

Q. August 3rd?

A. Yes, sir.

HARLEY ALLEN

Q. And where was it found? 161

A. It was found right about where this red spot is here.

Q. All right, sir.

A. And five or six rows over in the edge of the corn field. This is the cotton patch.

Q. Now was her body in the corn field?

A. No, sir.

Q. When you say "five or six rows," you mean it was opposite the fifth or sixth row?

A. Yes, sir. 162

Q. Was it in the field or in the woods?

A. About twenty-five yards in the woods.

Q. How long had the the search party been searching in the immediate vicinity of where her body was before it was found?

A. Well, I would say from nine o'clock that morning.

Q. Nine o'clock that morning they had been in the vicinity?

A. There had been somebody in that area practically all that morning. 163

Q. And was her body concealed?

A. Well, pretty well.

Q. How was it concealed?

A. Well, it was back up under some vines and—

Objection By Mr. Britt: Now if the Court please, we object unless this witness was present when the body was found.

Sol. Kilgo: We will clear that up.

The Court: If he were not present when it was found, 164
I think counsel's objection would have to be sustained.

Sol. Kilgo: Let me bring this out.

HARLEY ALLEN

165 Q. How far were you away from the body when it was discovered?

A. About seventy-five yards.

Q. How did you know it was discovered?

A. They hollered.

Q. What did you do?

A. As a result of that, I went to it.

Q. Did you go straight to it?

A. Yes, sir.

Sol. Kilgo: We submit it is competent.

166 The Court: I think he can testify what was there when he arrived.

Q. When you arrived, did you see the body of Carolyn Barfield?

A. When I went—you had to get pretty close to it; I would say as close as from here to Mr. Vander Barfield (indicating gentleman either on front row or at State's counsel table) before you could see the body and there had been a lot of tracking in there.

Q. Did you see it?

A. Yes, sir.

167 Q. Do you know who found it?

A. Yes, sir.

Q. Who?

A. Well, I know the two men was together when I got there; now which one actually found it, I don't know.

Q. Who?

A. Mr. Johnny Mears and Mr. Bullock of the police department.

168 Q. While we have this sketch here, with reference to where the body was found, where is the filling station and place of business of Mr. Cecil Tyler?

HARLEY ALLEN

A. It is more over here on the highway, on 34 Highway. 169

Q. How far from where her body was found is it to the place of business of Mr. Cecil Tyler?

A. It is a good mile.

Q. Is that across fields and woods?

A. Yes, sir. (Resumes stand.)

Q. Mr. Allen, come here just a minute; I forgot to ask you something. (Witness goes in front of jury.)

After you make this turn here across Maple Swamp, was there any evidence along this line here to show that anyone had gone along there? 170

A. Well, Mr. Quick testified to that and Mr. Hamer. I turned around.

Q. How far is it from the Latta Highway down to the point where the sewer line, your red line, turns on the sewer line in this area?

A. Where it turned back is approximately three-quarters of a mile.

Q. And how far from here across the swamp?

A. It is a half mile or better.

Q. And how far, according to the route you have marked here, would it be from the automobile to the body of Carolyn Barfield. 171

A. Well, I would say approximately a mile and a quarter.

Q. And this area, the last segment of the sewer line over to where her body was found, is that a path or swamp?

A. It's swamp. There is an old road through there; it used to be; it is grown up now.

Q. That Saturday night and early Sunday morning, was it damp or dry? 172

A. It was damp. (Resumes stand.)

HARLEY ALLEN

173 Q. Mr. Allen, I hand you an aerial photograph and ask you if you know what that area represents?

A. Yes, sir, this represents Maple Swamp and the cemetery.

Q. Is the point where the body was found on that photograph, too? Or the approximate point?

A. Yes, sir.

Exhibit Offered By Sol. Kilgo: The State offers in evidence aerial photograph.

Mr. Britt: We have no objection.

(Aerial photograph marked State's Exhibit No. 4.)

174 Q. Mr. Allen, come here just a minute. (Witness goes in front of jury.) I am going to ask you just to briefly point out the cemetery, the Old Latta Highway, the sewer line and where the body was found.

A. Well, this here is the Old Latta Highway. Here is the cemetery. And this is the route, the opening you see through here, that is the sewer line.

Q. And approximately where was the body?

A. Over here. (Rest of answer inaudible.)

Q. I hand you one other photograph and ask you 175 what that represents, Mr. Allen?

A. That represents the spot where she was found at.

Q. The bushes seem to be thick there in one place with an opening. Where was her body with reference to that?

A. Back in this opening.

Q. Inside the opening?

A. Yes, sir, going back through there.

Q. Is that why it was difficult to see?

A. Yes, sir.

176 Exhibit Offered By Sol. Kilgo: The State offers it in evidence.

Mr. Britt: No objection.

HARLEY ALLEN

(Photograph of scene where body was found marked State's Exhibit No. 5.).

Q. Now, Mr. Allen, I believe you testified that searchers were in close proximity to that place where the body was found from nine in the morning approximately until four or after in the afternoon before it was actually spotted?

A. Yes, sir.

Q. Did you, when you got there, did you recognize the body?

A. Yes, sir.

Q. Did you know Carolyn Barfield Wolshock?

A. Well, I had talked to her about ten o'clock the same night.

Q. You knew her?

A. Yes, sir.

Q. And whose body was this?

A. Carolyn Barfield's.

Q. It was her body. And what position was it in on the ground?

A. Well, she were laying flat of her back, and her legs was kind of crossed just one another more or less, and she only had on a dress at that time.

Q. No undergarments?

A. No undergarments as I could tell and she looked like she had been choked up here.

Motion to Strike—Mr. Britt: Now if the Court please, that is a conclusion and we object and move to strike that.

The Court: Yes, sir, conclusions, of course, would not be proper and I sustain the objection. He can testify what he saw.

Q. Was she dead or alive?

A. She was dead.

HARLEY ALLEN

Q. Did you see any blood on her?

181 A. Yes, sir.

Q. Where?

A. Some on her mouth and some on her head.

Q. Did you see any wounds about her face or head?

A. Yes, sir, there was a wound in her chin, part of her bottom jaw and chin.

Q. Did you see any wound in her head?

A. Well, I seen the blood on her head. I didn't examine that.

Q. Was her clothing bloody?

182 A. There was some blood on her clothes, yes, sir.

Q. I presume her body was promptly removed?

A. Promptly removed, yes, sir.

Q. And that was some time after four o'clock on Sunday, August 3rd?

A. Yes, sir, after.

Q. In what position were for hands?

A. I believe her hands was laying kind of crossed like (crosses his hands across his stomach) that.

Sol. Kilgo: Your Honor, we would like after cross
183 examination to withdraw Mr. Allen; we are making an effort in order to save time to present the sequence of events as they occur, and we would like to call him back. We would like for counsel to cross examine him. He will be available to go back on the stand.

Cross Examination

By Mr. Hawkins:

Q. Mr. Allen, until you found this body, you didn't actually know who you were looking for yourself?

A. From information I was looking for Carolyn Barfield.

184 Q. So far as you knew, you didn't know who you were looking for?

HARLEY ALLEN

A. No, sir.

Q. Or whether you were looking for anyone. Isn't that right?

A. Well, that is true I mean.

Q. Now, Mr. Allen, you say you received a call and came to Mount Holly Cemetery on this night in question?

A. Yes, sir.

Q. I don't recall exactly what time you stated you arrived, what time it was.

A. I would say approximately around one-thirty to a quarter 'til two.

Q. And when you got there, Mr. Allen, who was there at the place when you arrived?

A. Mr. Bowen who lives across Maple Swamp. Mr. Dick Bowen who is on the police department. And Jimmy Horne.

Q. And where were they, sir?

A. They were just inside the gate when I got there.

Q. And Jimmy– did you examine his condition when you arrived?

A. Shortly afterwards, yes, sir.

Q. Did he have any blood on him?

A. Yes, sir.

Q. And where was it?

A. It was on his shoulder.

Q. Was he still bleeding?

A. No, sir, it had stopped.

Q. And where does Mr. Bowen, the man that you say lived across Maple Swamp, where does he live with reference to the cemetery?

A. Well, on the right-hand side, the first house on the right-hand side, I believe it is, after you cross the swamp at Maple Swamp. Down here (indicating).

HARLEY ALLEN.

Q. In other words, you come out of the entrance of
189 the cemetery and turn to the left?

A. That's right.

Q. And go on down the road across Maple and he lives in the first house on the right?

A. Yes, sir.

Q. And in going in that direction, you would also come to the opening of this sewerage right-of-way, would you not?

A. Well, if you come out the main gate; but if you come out the lower path, you wouldn't.

190 Q. But the main gate is the entrance to the cemetery?

A. Yes, sir. But there is an old walking path down there at the lower end of it.

Q. And the place you found the car was very close to that main entrance, was it not, where the circle came around, and it was almost close to the place where a car would exit when it came out?

A. Well, it was back up to where you made the circle and then come back into the road you come out of.

191 Q. Well, Jimmy Horne in going to see Mr. Bowen would have passed right by the place that you say you saw some drops of blood along the highway. Isn't that right?

A. Well, I can't tell you what Jimmy Horne told me.

Q. I said he could have.

A. If he had come out the main gate, yes, sir.

Q. Now, Mr. Allen, prior to the time that you arrived at the cemetery that night, do you know where all these three people had been and what they had explored and what regions of the cemetery and across
192 the road they had gone into?

A. Ask me that question again.

HARLEY ALLEN

Q. I say do you know where any of these three people had hunted for someone that night and where they had been? 193

A. Which three people?

Q. The three people that you found at the cemetery when you arrived?

A. Well, as their taillight turned into the cemetery, I come in view of their taillight, Mr. Hawkins, and they had just more than got out the car when I got there. I drove up right behind their car.

Q. You came up right behind Sgt. Dick Bowen's car? 194

A. Yes, they were just approximately about ten feet away from the car when I got there.

Q. Well, now that night about what time did you leave the cemetery?

A. You mean all night long?

Q. Yes, sir.

A. Well, we were out searching around and in and out there all times of the night I mean.

Q. You didn't cross over the highway and go up into this drainage ditch area until when? 195

A. Well, it was just about sunup the next morning that we crossed over the highway.

Q. Do you know about what time that was?

A. Well, I don't. It was early.

Q. How many people would you say, Mr. Allen, came out to the cemetery before you actually crossed over the highway on to the other side?

A. It wasn't too many because it was late at night when it happened, and the officers and I would say maybe a half a dozen people stopped there during the time until (does not complete sentence.) 196

Q. Do you know all those people?

A. No, sir, I don't.

Q. Do you know where they looked and what they did?

A. I know a lot of them was searching the graveyard.

Q. A lot of them could have searched up and down the highway; a lot of them could have searched up and down the other side of the road.

A. Well, that was after—that was after sunup, Mr. Hawkins, after we found the blood.

Q. I am talking about before you crossed over there, other people came up, came to the cemetery and helped you all search around the area?

A. Well, that was very few until after sunup the next morning.

Q. There was some, though?

A. Oh, yes.

Q. And you don't know where they went and what they looked for and how far they proceeded with the search, do you?

A. Well, no, sir, I know they didn't get too far from us.

Q. But there were other people looking, and where they looked you don't know?

A. No, sir.

Q. Where were you when you received the call?

A. I was passing the police station fixing to park there.

Q. Did you get the call on your radio?

A. Yes, sir.

Q. What time was that that you received the call?

A. Well, I would say it was between—right close to one-forty-five or something like that, one-thirty, be-

cause we didn't even stop; we just drove right on down there.

Q. Where did the operator say he was when he gave his signal on his car?

Objection By Sol. Kilgo: We object to that; that is hearsay if the Court please.

Q. How did you know where to come?

A. Well, he didn't tell me exactly where he was. He told me to come to the cemetery.

Q. So he must have already been there when he gave you the call?

A. No, he wasn't there when he gave me the call because he couldn't have been.

Q. You don't know, though, where he was. All you know is you received information to come to the cemetery?

A. I know where he left—

Q. (Interrupting) And you were at City Hall which is more than a mile away from that cemetery?

A. Yes, sir.

Q. Who did you have with you?

A. Mr. Anderson.

Q. And where had you all been?

A. We had been to Lake View.

Q. And were you on duty or what that night?

A. Well, we were on duty.

Q. What were you investigating?

Objection By Sol. Kilgo: We object on the ground it is irrelevant if the Court please.

The Court: How would that help?

Mr. Hawkins: We withdraw the question.

Q. Mr. Allen, I show you this drawing which has been offered. I ask you if this shows this driveway going into the cemetery and circling around the cemetery

HARLEY ALLEN

is the outline of that road? I know it is not accurate as
905 to measurements.

A. No, sir.

Q. But as to outline?

A. That is approximately the outline of it right there.

Q. That shows the road that enters the cemetery?

A. Yes, sir.

Q. And also show the roads that exist within the cemetery itself?

A. Yes, sir.

906 Q. And there are no other roads going off in any direction?

A. Not that you can travel out from the cemetery with a car.

Q. Well, are there any other roads other than this circle inside the cemetery?

A. Well, on this (goes in front of jury). Along about here there is a road breaks off and comes down here to the edge of this Maple Swamp.

Q. Mark that with your pencil, please.

907 A. Well, I will just mark it approximate because I am not no drawer. (Marking.) That comes here down here to the oak tree right in there.

Q. Now will you mark any other road that you know about in the cemetery?

A. Well, this road here where you first come in there is a road comes around like that and another one comes into this same road here and then comes on around.

Q. Can you mark that there?

A. This road should be a little bit back here as you first come in the main gate. And right here this road
908 here comes on around and comes into this road here and comes on back where the car is and comes out the

HARLEY ALLEN

same way. But this here circles right into where the car was.

The Court: I doubt if the jurors can hear.

A. I say there is another road breaks off here and comes into this same road and comes on around. But this here is the main circle in the cemetery.

Q. So?

A. (Continues) What you call "main"?

Q. So this doesn't actually show an accurate outline of the roads that exist there. This just shows some of the roads.

A. Well, that shows the circle and the main road into the entrance. (Witness resumes stand.)

Q. Did you make this drawing yourself?

A. No, I am not that good a drawer.

Mr. Hawkins: That's all.

(After witness leaves stand, he is called back for further cross examination.)

Q. Mr. Allen, did you make, at the time that you went to the cemetery that night, did you make a thorough examination of the inside and outside of that Oldsmobile automobile that was there?

A. I did the best I could that night, Mr. Hawkins.

Q. Did you find any bullets in the car?

A. No, sir.

Q. Did you find any bullets embedded anywhere about the body on the inside or outside of the car?

A. No, sir, except through that glass.

Q. You didn't find any bullets there?

A. No, sir, but I meant that I saw the sign of a bullet.

Q. The only thing you found was a small hole?

A. That's right.

Q. In one side of the rear glass?

HARLEY ALLEN

A. Yes, sir.

213 Q. And in addition you say a larger hole in the opposite side of the same glass?

A. That's right.

Q. Insofar as finding any bullets, you didn't find any whatsoever at that time or any other time about the car?

A. No, sir.

Q. After you left there, was the car taken somewhere else and examined?

214 A. Later on, when we moved the car, we moved it to the jail. And later on, we did examine that car thoroughly.

Q. You almost took it apart, didn't you?

A. Yes, sir.

Q. Took the seats out; took it so you could examine the whole car itself and each part of it almost?

A. Yes, sir.

Q. And still you found no bullets?

A. No, sir.

215 Q. In your examination of this small hole, could you determine whether or not something passed from the inside going out or from the outside going in?

A. Well, to my opinion it passed.

Q. No, we don't want that. We want anything that you discovered. Could you determine from anything that existed there?

A. Well, I will say I am not an expert in that, but I will say from my—

Q. (Interrupting) We don't want your opinion then. Did you find anything to indicate where anything that 216 made that hole, if anything did, left any mark to show which way it was passing?

HARLEY ALLEN

A. Yes, sir, it was passing from the outside inward to the car. 217

Q. What did you find? I am not asking you for an opinion.

A. Well, there is a little—in this glass, this shatterproof glass, Mr. Hawkins, there is a layer of I would call it celluloid—I don't know the proper name for it—and in this layer, if your bullet penetrates—

Q. (Interrupting) We are not talking about a bullet. We are talking about something else.

A. Well, anything you want to put through there; but if you punch a pencil through there, that will make 218 a tendency for that celluloid to turn whichever way the bullet penetrated or the pencil or whatever you might have called it.

Q. Wouldn't something press that celluloid out as it pressed the glass?

A. Well, it pushed the edges and presses it whichever way it is travelling. If it is travelling—

Q. (Interrupting) Now this back glass opens on the inside to a little shelf behind the rear seat, doesn't it?

A. How is that now? 219

Q. I say this back window, before the window is a little shelf behind the rear seat of the automobile? All automobiles, you know, have a little shelf behind the rear seat?

A. Oh, yes, back up behind the seat, yes, sir.

Q. And this is the glass right over that shelf that you are talking about?

A. Yes, sir.

Q. You did not find any glass on that little piece of shelf? 220

A. (Thinking.)

Q. Did you?

HARLEY ALLEN

A. I believe there were a little shattered on the right
221 and on the left-hand side; it was all on the outside practically.

Q. All on the outside.

A. On the left-hand side. That is facing from the back now looking at the car from the back.

Q. All on the outside?

A. On the left.

Q. How about on the right?

A. Well, there was some little shivers back up there of glass on the right.

222 Q. Have you got it with you?

A. No, sir.

Q. Why didn't you tell me that, Mr. Allen?

A. Tell you what?

Q. We have been talking about it for about three or four minutes and you have just come out with the answer about those three little shavings you found. That is what I have been asking you about two or three minutes.

A. No, you've been asking me about could I tell
223 which way it was shot from.

Q. That's right. But I asked you was there any glass on that little shelf back of that seat. You still say you found three little shavings?

A. I didn't say three. I said there was some little shivers back there.

Q. Little shivers?

A. Yes, sir.

Q. But you didn't preserve those?

A. No, sir.

224 Q. Why didn't you?

A. Well, I think we got a man in court can testify to that.

HARLEY ALLEN

Q. Why didn't you? You said you are the one that found them.

A. We was all together.

Q. Sir?

A. We were all down there together the last time we examined it.

Q. Did he take them? Did you turn them over to him?

A. I don't know. We turned the evidence of the car over to him.

Q. When did you see these little shivers?

A. Well, we were trying to determine that night whether it was—

Q. (Interrupting) I asked you when you saw these shivers that you finally told me you found?

A. That is that night down there.

Q. And who was there with you when you found them?

A. Mr. Anderson, Sgt. Bowen, Mr. Quick; we was all in there looking at it.

Q. And where was the car at that time?

A. Right where it—we found it.

Q. Still in the cemetery?

A. Yes, sir.

Q. And who picked up these little shivers?

A. Well, I don't know as anybody picked them up. I didn't.

Q. You did not?

A. No, sir.

Q. That was the same time you made the examination for the bullets in the car?

A. Well, we looked that night for bullets and later on when we got it to the jail, we done like you said, we taken everything out of it and tried to find bullets.

HARLEY ALLEN

220 Q. While the car was still standing in the cemetery, over on the side where you say there was a little hole?

A. That's right.

Q. (Continues) Didn't that glass shiver and fall out and make a much larger hole?

A. Not at that time, no, sir.

Q. When did it?

A. When I crossed the railroad carrying it back down there for Quincy Bullock to show us where to put it in the cem—

Objection By Mr. Britt: Now if the Court please, we 216 submit he has no right to make a statement that he is starting to make.

The Court: He asked him when did it occur?

Mr. Britt: Yes, sir.

The Court: What is your answer?

A. I told him when—

Q. Just tell me where it occurred?

A. Where what occurred?

Q. Where it fell out?

A. On the way back to the cemetery.

221 Q. Did you measure the height of the Oldsmobile automobile?

A. No, sir, I did not.

Q. Do you know approximately how high it is?

A. No, I don't, Mr. Hawkins.

Q. It was a 1956 automobile?

A. [redacted], sir.

Q. Can you give us an estimate of how high you think it is based on your observation of that automobile?

222 A. Well, I would say five, seven or eight.

Q. Five feet, seven or eight inches?

HARLEY ALLEN

A. Well, that is just a rough estimate now; I don't know.

Q. Is that the height of the automobile, the measurements of height of the top to the ground?

A. I never measured it; I don't know.

Q. I mean you are giving us your estimate?

A. I will say around five and a half to five eight.

Q. Now how high was the small hole in the rear glass from the ground?

A. About four and three-quarters.

Q. Four feet?

A. And three-quarters.

Q. Four and three-quarters feet from the ground?

A. Yes, sir.

Mr. Hawkins: That's all.

Re-direct Examination

By Sol. Kilgo:

Q. Oh, Mr. Allen, you say you saw a slip out there. What did you do with it?

A. A What?

Q. A slip, undergarment.

A. That's turned over to the State Law Enforcement Division.

Q. To Lt. Wilson?

A. Yes, sir.

Q. Did you turn it over to him?

A. No, sir.

Q. Who did you turn it over to?

A. I turned it over to the sheriff.

Q. What about the clothing on the dead body when you found it, do you know what was done with it?

A. No, sir, I don't know what was done with that.

Q. Do you know who did deliver it to anyone?

237 A. Well, she still had it on her when we turned her over to the undertaker.

IDA KAY BARFIELD, sworn to tell the truth, the whole truth and nothing but the truth.

Direct Examination

By Mr. Gasque:

Q. What is your full name, please?

238 A. Ida Kay Barfield.

Q. You will have to speak loud now so the jury can hear you. How old are you?

A. Nineteen.

Q. And where do you live?

A. I live with my mother in Lake View.

Q. And what relation, if any, were you to Mrs. Carolyn Barfield Wolshock?

A. She was my sister.

Q. And where did she live?

239 A. At home (crying).

Mr. Gasque: Your Honor, if I could just ask this witness one question.

The Court: Wait just a minute. All right, young lady, he just wants to ask you a question.

Q. Miss Barfield, I would like to ask you if you have seen this pocketbook before?

A. Yes, sir.

Q. Were you present when it was bought?

A. Yes, sir.

240 Q. Where was it purchased?

A. At Collins' Department Store in Chadbourn, North Carolina.

IDA KAY BARFIELD

Q. By whom was it purchased? 241
A. My sister, Hilda.
Q. And where did Hilda live?
A. She was living at home at the time.
Q. Where Mrs. Wolshock was living?
A. Yes, sir.
Q. Did Mrs. Wolshock often use that purse?
A. Yes, sir.
Q. Did she have it with her that night?
Mr. Britt: If she knows.
A. Yes, sir.
Q. Do you know if she had it with her that night? 242
A. No, sir, I don't know.

Exhibit Offered By Mr. Gasque: We offer the pocketbook in evidence.

Objection By Mr. Britt: We object.

Mr. Gasque: If the Court please, the witness states she was present when it was purchased; that it belonged to her sister who lived in the house with Mrs. Wolshock and she often used it and we think it is competent.

The Court: Are you offering it in evidence as the 243
bag that was found in the car?

Mr. Gasque: Yes, your Honor.

The Court: Admitted.

Objection By Mr. Britt: We object to the contents of the bag being offered at the same time if the Court please.

The Court: Was or was not that identified by Mr. Allen as having been found?

Mr. Gasque: Yes, sir.

The Court: I am admitting it as having been found 244
in the automobile in question.

Mr. Gasque: Yes, sir.

IDA KAY BARFIELD
MRS. EVA BARFIELD
JOHN MEARS

Mr. Britt: We haven't seen the contents if the Court please. (Gets exhibit.)

(Handbag previously marked State's Exhibit No. 1 for Identification, now marked State's Exhibit No. 6.)

The Court: Any other questions?

Mr. Britt: Come down.

Mrs. EVA BARFIELD, sworn to tell the truth, the whole truth and nothing but the truth.

Direct Examination

By Mr. Gasque:

Q. Mrs. Barfield, are you the mother of Mrs. Carolyn Wolshock?

A. Yes, sir, I am.

Q. Did you see her when she left your home that night?

A. Yes, sir.

Q. Did she take that pocketbook with her?

A. Yes, sir, she did.

Mr. Britt: Come down.

Mr. JOHN MEARS, sworn to tell the truth, the whole truth and nothing but the truth.

Direct Examination

By Sol. Kilgo:

Q. You are a member of the City Police Department of Dillon?

A. Yes, sir.

Q. Did you participate in the August 3rd search of Maple Swamp for the body of Carolyn Barfield Wolshock?

JOHN MEARS

A. Yes, ~~sir, I~~ did.

Q. Who found her body? 249

A. I did myself.

Q. What time did you find her?

A. It was between four and four-thirty P. M.

Q. Was it in a concealed location or in the open?

A. It was in more or less a concealed location.

Q. Does this picture mean anything to you, Exhibit No. 5?

A. Yes, sir, it does.

Q. What does that represent?

A. That represents the location of where the body 250 was found by me.

Q. How close did you have to be to the body to see it?

A. Approximately five yards.

Q. Five yards? Do you know whether or not the search party had been searching throughout the day in the immediate area there without seeing it?

A. So I have heard, yes, sir.

Q. Did you go to the body?

A. I went within about six feet of the body. 251

Q. Was there or not an enclosure around the body of growth?

A. Yes, sir.

Sol. Kilgo: Your witness. Excuse me just a minute.

Q. What did you do when you found the body?

A. We kept all the other members of the searching party away from the body until the sheriff and the deputies arrived.

Q. Did Mr. Harley Allen come to the body?

A. Yes, sir. 252

Q. How long after you found it was it when he got there?

JOHN MEARS
SHERIFF JASPER D. ROGERS

A. Within a few minutes after we found it.

Q. Had the body been moved or disturbed any when he got there?

A. No, sir.

Sol. Kilgo: Your witness.

Mr. Britt: Come down.

SHERIFF JASPER D. ROGERS, sworn to tell the truth, the whole truth and nothing but the truth.

Direct Examination

By Sol. Kilgo:

Q. Sheriff, you participated, of course, in the search?

A. I did.

Q. Was the slip that was found along the sewer line trail turned over to you?

A. It was.

Q. Did it have blood on it?

A. It did.

Q. Were the clothes that Mrs. Wolshock was wearing—

Objection By Mr. Britt: If the Court please, we object to his stating what was on the slip; he can state what the appearance was.

Sol. Kilgo: We withdraw the question.

Motion to Strike—Mr. Britt: We move it be stricken from the record.

The Court: Yes, sir, your motion is granted. His statement as to what was on it is excluded, gentlemen. Go ahead.

Q. Was the slip turned over to you?

A. It was.

SHERIFF JASPER D. ROGERS
LT. JAMES K. WILSON

Q. What did you do with it?

A. I some time later turned it over to Lt. Wilson with S. L. E. D.

Q. Lt. Wilson?

A. Lt. Wilson.

Q. Did you get the clothing from the body of Mrs. Wolshock?

A. The dress. I did.

Q. The dress? And what did you do with it?

A. I also turned it over to him.

Sol. Kilgo: Your witness.

Mr. Britt: Come down.

LT. JAMES K. WILSON, sworn to tell the truth, the whole truth and nothing but the truth.

Direct Examination

By Sol. Kilgo:

Q. Lt. Wilson, by whom are you employed?

A. South Carolina Law Enforcement Division.

Q. In what capacity are you employed?

A. Lab technician.

Q. What degrees do you have?

A. I have a bachelor of science from Clemson College; I did graduate work in Charleston Medical School; testified in state and federal courts and have been in this work for eight years.

Q. How many years have you been employed as a lab technician by the South Carolina Law Enforcement Division?

A. Almost eight years.

Q. Have you on many occasions examined clothing to determine what certain markings on clothing—to determine the substance on certain articles of evidence?

LT. JAMES K. WILSON

A. I do, sir.

261 Q. Did you receive any articles from Sheriff Rogers in connection with this case?

A. I did, sir.

Q. Did you receive a slip?

A. I did, sir.

Q. Did you receive a dress?

A. I did, sir.

Q. Did you examine it?

A. I did, sir.

Q. What did you find?

262 A. Blood. Human blood, sir.

Q. Did you group that blood?

A. I did, sir.

Q. Did you—what group was it on the dress?

A. Group "A".

Q. What?

A. Group "A".

Q. What group was it on the slip?

A. Same group, "A".

Q. Did you find certain blood at the location of the
263 automobile in Mount Holly Cemetery?

A. I was present when it was picked up, sir, on some leaves.

Q. On some leaves?

A. Yes, sir.

Q. And when was that?

A. On the 5th of August.

Q. What day?

A. The 5th.

Q. And do you recognize this sketch here, Exhibit
264 No. 2 for the State? Do you recognize this location—the Old Latta Highway here?

A. Yes, sir, I recognize it.

LT. JAMES K. WILSON

Q. Do you recognize this?

A. Yes, sir, the cemetery.

Q. Where was the blood removed from the ground?

A. Along a hedgerow here as you come in and turn right around this run-around. On a hedge about where this red color is.

Q. All right. Did you analyze that blood?

A. I did, sir.

Q. And what group was it?

A. Human blood, group "A".

Q. Was that the same group of blood you found on the slip and the dress delivered to you?

A. Yes, sir.

Q. Did you also in the course of your examination analyze the blood of one Jimmy Horne?

A. From his shirt, yes, sir.

Q. What group was it?

A. It was group "O", sir.

Sol. Kilgo: Your witness.

Cross Examination

By Mr. Britt:

Q. Mr. Wilson, is group "A" blood, is that a common type of blood?

A. It is, sir.

Q. A great number of people have that same type.

A. Let me explain that, sir. Approximately forty per cent. of the population has group "O"; approximately forty per cent. has "A"; ten or fifteen "B"; and approximately five per cent. "AB".

Mr. Britt: Come down.

LT. JAMES K. WILSON

Re-direct Examination

By Sol. Kilgo:

Q. Mr. Wilson, do you have that slip and dress in the court room?

A. It is in the court room.

Exhibit Offered by Sol. Kilgo: The State offers it in evidence.

Q. (Hands witness packages) You hold in your hand two packages?

A. Yes, sir.

Q. The package in your right hand contains what?

A. The slip of Carolyn Barfield; labeled "Carolyn Barfield."

Exhibit Offered by Sol. Kilgo: The State offers it in evidence.

Objection By Mr. Britt: Now if the Court please, this witness is doing the same thing other witnesses have done—describing this as being the property of somebody whom they don't know whether it is the property of or not. We have no objection to its being admitted as the slip found in the woods.

The Court: All right, sir.

Mr. Britt: But we do have objection to the witness' stating who the slip belonged to.

The Court: It will be admitted as the slip found in the woods.

Motion to Strike—Mr. Britt: Then, if the Court please, we move that his answer as to whose slip it was be stricken from the record.

The Court: The motion is granted.

(Slip found in the woods marked State's Exhibit No. 7.)

Q. Lt. Wilson, what is that?

A. A dress.

LT. JAMES K. WILSON

Q. That is the dress you earlier identified and from which you analyzed blood? 273

A. Yes, sir, that I received from Sheriff Rogers.

Exhibit Offered By Sol. Kilgo: The State offers the dress in evidence.

Mr. Britt: We have no objection except to the container which has the name upon it.

(Dress marked State's Exhibit No. 8.)

Re-cross Examination

By Mr. Britt:

Q. Do you have with you the shirt of Jimmy Horne? 274

A. I do, sir.

Q. Sir?

A. I do.

Q. Ma[illegible] see that? (Examines shirt.) Now, Mr. Wils[illegible]ou explain to the jury how you make these blood smear tests if that is what you call them?

A. Well, sir, a suspected stain on an article, we extract that stain.

Q. (Interrupting) How do you extract it?

A. Normal saline solution; physiological saline solution. 275

Q. Now does that take it out of the fabric?

A. That's right, sir. It extracts it from the fabric.

Q. And does it leave any blood stain on the fabric at all where you took it out?

A. It's according to how long you leave it on there, how thick it is, how old it is, how dry it is. You can get it all out if you so desire.

Q. Well, these particular tests that you made, did it take the blood completely out of the article? 276

A. No, sir.

Q. How much blood did you take from the article?

Lt. James K. Wilson

277 A. Enough to get a red color in some of my tests; that's all.

Q. How much was that?

A. It's equivalent to about a five per cent. solution of blood.

Q. Well, can't you tell us in drops or something like that about how much actual blood you extracted?

A. Well, it wouldn't be over a drop; a good drop is enough to run some of the tests. I ran numerous tests like that.

Q. And where you took that from the article it left
278 no indication on the article where it was extracted from?"

A. Well, it weakened the color of it. Some of the articles, we cut pieces out of it; some of the articles, you will find crusts of blood, therefore you wouldn't have to extract it; you just get the crust of blood and work with it.

Q. Well, now when you cut the pieces from the clothing, did you then extract the blood from the piece you had cut?

279 A. Yes, sir.

Q. Took it all the way out?

A. Yes, sir.

Q. So that left a clear piece of clothing?

A. My color cones, what I was looking for, there could still some be in there according to the concentration in the cloth or article I am taking it from.

Q. When you take a blood particle from print clothing, does that take the dye out with it?

A. No, sir, it does not.

Q. You mean the solution you have will extract blood
280 from other solutions in that particular article and separate it?

LT. JAMES K. WILSON

A. Other solutions? I don't know what you mean.

Q. All right. Dye?

A. Dye? No, sir, your dye is insoluble in water; your blood is soluble. It will take blood out and leave your dye in.

Q. It will take blood out and leave the dye in?

A. That's true.

Q. Regardless of how that dye is applied?

A. Well, if you had a water soluble dye, it will take the dye out.

Q. Were these water soluble dyes?

A. No, sir.

Q. What were they?

A. I didn't check the dyes.

Q. You don't know whether they are or not?

A. Well, if they were water soluble, they would be extracted. They were not extracted so they must be—

Q. (Interrupting) That is just a general rule?

A. I don't know whether it is a rule or not, but—

Q. (Interrupting) But you didn't test to see in this case?

A. I did not test any dye; they were not interested in it.

Q. Now you picked up some blood you say on the highway down there two days after this thing?

A. I didn't say that.

Q. You said on August 5th?

A. I did not pick up anything. I didn't make that statement.

Q. You didn't?

A. No, sir.

Q. Who did?

A. I don't know who made the statement. I didn't, sir.

Lt. James K. Wilson

285 Q. Well, you didn't get any blood then from down at the scene?

A. Yes, sir, I did. The sheriff picked it up.

Q. In your presence?

A. In my presence.

Q. And that was in the dirt?

A. No, sir, on leaves.

Q. On leaves?

A. Yes, sir.

Q. You picked up—what blood you picked up was on how many leaves?

286 A. Well, it was five or six. I didn't pick up the blood; the sheriff picked it up in my presence and handed it to me.

Q. Well, you saw him?

A. I saw him, sir.

Q. And what size leaves were they?

A. I didn't measure them.

Q. Well, you can give us an idea?

A. About an inch long or a half.

287 Q. Oak leaves?

A. No, sir, they were not that large.

Q. Smaller than that?

A. Smaller than that.

Q. And just where was that, Mr. Wilson?

A. As you entered the cemetery, there is a—well, the road goes into a circle. As you enter the cemetery from th main highway as you turn right, it is right up near the hedge as you turn right on the inside of the circle, sir.

288 Q. Now let me see if I understand you correctly. (Witness goes to diagram.) Show us on here where you picked the leaves up?

Lt. James K. Wilson

A. Come in from the highway here as you turn right on the inside of the circle, it was picked up around this hedge or bush I call it; it looked like a hedgerow. Picked up right on the edge of that.

Q. Will you indicate with a pencil just where you picked or the sheriff picked up the leaves?

A. Right in this area (marking).

Q. Well, mark it good: Mark it so we can see it again. Now that was right beside the car. Is that right?

A. I don't know, sir. There was not a car there when we found the blood.

Q. Was it in the road or on the side of the road?

A. On the side of the road, sir.

Q. On the side of the road?

A. Yes, sir.

Q. And which side of the road was it?

A. As you turn right to go around to the right, it was on the left-hand side on the inside of the hedge or hedgerow bushes there.

Q. As you turn in and go to your right?

A. Yes, sir.

Q. It was on the left-hand side?

A. It would be on your left as you proceed around that circle.

Q. So if the car was parked there facing north, then where the sheriff picked the leaves up with blood on it would be on the right-hand side of the car?

A. If the car was facing north, it would be on the driver's side to the left—wait a minute. If it was facing north, sitting in the car it would be on the right-hand side on the inside of that circle.

Q. It would be on the right-hand side on the inside of that circle?

A. Yes, sir.

LT. JAMES K. WILSON

293 Q. hat time of day was it when you had this blood picked up?

A. It was around noon.

Q. Around noon on August 5th?

A. Yes, sir.

Q. And that was on Tuesday?

A. I believe that is correct, sir.

Mr. Britt: Thank you, Lt. Wilson.

Sol. Kilgo: May it please the Court, our next witness is Dr. Branford and he has gone to the hospital on an emergency call.

294 The Court: Gentlemen, go to your room a few minutes. (Jury retires. The Court confers with counsel. Jury returns.)

The Court: Gentlemen, I am going to keep you together until the case has been disposed of as we have been doing in other cases this week. It is just a matter of caution and care for the jury to remain together until the matter has been disposed of. Sheriff, do you have three bailiffs?

(L. T. Moody, Legare Caulder and Roy Hulon
295 stand.)

The Court: Are either of you witnesses in the case?

All Three: No, sir.

The Court: Are either of you related to anyone in the case?

All Three: No, sir.

The Court: Do either of you have any interest in the case?

All Three: No, sir.

The Court: Is there objection by either the State or
296 defense counsel as to either of these serving as a bailiff?

Sol. Kilgo: None from the State.

Mr. Britt: None from the defense.

(Messrs. Moody, Caulder and Hulon sworn. Jury taken to lunch.)

Friday, October 24, 1958, 2:30 P. M.

(Jury returns. Polling of the jury waived by counsel.)

Mr. WILLIS ROWELL, sworn to tell the truth, the whole truth and nothing but the truth.

Direct Examination

By Sol. Kilgo:

Q. Mr. Rowell, where do you live?

A. Where do I live?

Q. Yes, sir.

A. Right here in Dillon.

Q. What kind of business are you in?

A. Bicycles and repairing guns. Repairing guns and bicycles.

Q. In hand you a Harrison and Richardson .22 revolver and ask you to look at it and tell me whether or not you recognize it?

A. (Looks at revolver) Yes, sir.

Q. Tell the jury what you know about that revolver?

A. Well, this was a old revolver I had in my shop lying there for a couple of years that some little boy come there and give me for the rear end of a bicycle, and it lay there for nearly two years, and I never did fix it. I didn't have no use for it. I never did fix it. And this fellow come down to my place—

The Court: What fellow?

A. This colored fellow right there.

Q. This man here? (Indicating the defendant.)

A. Yes, sir, right here. And he come there and he asked me did I have one to sell him. I told him I did

not; I didn't have but one of my own in the place and
301 that was my own in my room. He says, "Well, I need one to keep in my room at the house." I says, "Well, I haven't got ary one at all but this little old .22 friend lying here," I says, "That isn't no gun, not now." He says, "Well, that is the size I want," he says, "Can't you fix it?" I says, "I could. I could fix it." I says, "I would have to order a cylinder and cylinder pin to go in it." And during the time the cylinder pin and the cylinder was coming, I made a lever to go in it that rolled the cylinder.

302 Q. Well, what did you do, when you got the cylinder, what did you do with reference to the pistol?

A. What did I do with it?

Q. Yes, sir.

A. Well, I put it together then.

Q. Then what?

A. Well, I laid it down in the drawer.

Q. Well, when did you next see this man in connection with the pistol?

A. When did he get it?

303 Q. Yes, sir.

A. Get connected with it?

Q. Yes, sir.

A. Well, he got the connec—he saw it the day—the next day after I got it finished.

Q. Yes, sir.

A. Well, he went away.

Q. Yes, sir.

A. And I ordered on the 15th.

Q. (Interrupting) Well—go ahead.

304 A. I ordered on the 15th of July this cylinder for it and this pin.

WILLIS ROWELL.

Q. Yes, sir. I understand. Did you finally get a cylinder and pin and put it together? 305

A. And put it together, yes, sir.

Q. Then what did you do?

A. I laid it down there until he come and he picked it up.

Q. When was that?

A. Well, he picked it up on the 23rd day of July.

Q. Of this year?

A. Yes, sir.

Q. Did he buy it? 306

A. Yes, sir.

Q. Did he pay you for it?

A. Yes, sir.

Q. What did he pay you?

A. Twenty-one Dollars.

Q. Is that the last you have seen of it?

A. Sir?

Q. Is that the last you have seen of it?

A. No, I seen it once before.

Q. During the investigation? 307

A. Yes, sir, a gentleman showed it to me once.

Q. Is that the same pistol you sold him on July 23rd?

A. That's right.

Sol. Kilgo: Your witness.

Mr. Britt: Come down.

Exhibit Offered By Sol. Kilgo: If the Court please, the State offers this for identification.

(H. & R. pistol No. M63422 considered Estate's Exhibit No. 2 for Identification.) 308

ELVA BETHEA

ELVA BETHEA, sworn to tell the truth, the whole truth
309 and nothing but the truth.

Direct Examination

By Sol. Kilgo:

Q. Your name is Evelyn Bethea?

A. Elva. Elva Bethea.

Q. Where do you live?

A. On Cleveland Street and—down here across the Seaboard Railroad; Cleveland Street and Levon Avenue.

310 Q. What kin are you to Quincy Bullock?

A. He married my sister.

Q. He married your sister?

A. Yes, sir.

Q. Do you remember the night of August 2nd, Saturday night, this year?

A. Yes, sir.

Q. Did you see Quincy Bullock that night?

A. Yes, sir.

Q. About what time was that?

31: A. It was somewhere around about seven-thirty.

Q. And where was that?

A. He came down to my sister's house, and we were there, and, see, the girl that is in the back was sick, her daughter, and he come in there and said, "Has Mattie been there?" I told him, "No," because I didn't know she had been there. She had been there but she had gone. And he spoke to Lou and asked her how did she feel, and Lou talked to him a pretty good while about religion—you see, she had been real sick. And he stayed there and talked a long time. And he says, after
321 a while—oh, he stayed over an hour—he says, "Well, I got my old hen and biddies—

ELVA BETHEA

Q. (Interrupting) Old hen and biddes?

A. Yes, sir. And I say, "What you say, Quin?" He says, "Well, I got my old hen and biddies." I says, "Where?" He says, "Right here." And about that time he pulled it out and he says, "This is it." I says, "Well, what you doing with it, Quin?" He says, "I ain't doing nothing with it; I just bought that to 'tect my house," says, "I didn't have no protection, and I bought this to protect my house."

And he stayed a long time and just talked. And then he opened it, and I don't know whether it was three or four fell out; but anyhow when he opened it, some of the balls fell out. So he picked them up, and he put them back in it, and this pistol it holds—I think it was nine balls.

Q. Nine balls?

A. Uh huh.

Q. Was it either (handing State's Exhibit No. 2 for identification to witness) I have taken the cylinder out. Was it either this pistor or one that looked like this?

A. I won't be definite sure, but it could be like that because I have never owned one, never had one in my hand; I did not have it in my hand, but it looked black. I didn't see nothing only he just said it was his hen and biddies and then he put it back in his pocket.

Q. He had a pistol in his pocket?

A. Yes, sir.

Q. Called it his hen and biddies?

A. Yes, sir, and after he talked a long time, he said, "I got me a old hen and biddies." And I says, "What you talking about, Quin?" And we laughed. He says, "Got it here." I says, "Where?" and he pulled it out. He says, "This is a old hen and biddies." I says, "Well,

ELVA BETHEA

what you doing with the old hen and biddies?" He says, "I got this to protect my house."

Q. And it was a black pistol?

A. It looked black to me. Now I don't know one pistol from the other because I never owned one. But it just looked black, and he put it back in his—

Q. (Interrupting) And that was about seven thirty August 2nd of this year?

A. Yes, sir, but he didn't leave there. Oh, he stayed there over a hour. Ten o'clock. I think it was ten when he left because he sit there and talked to my niece; she was in the bed sick, and he was sitting there talking to her.

Q. He left about ten o'clock, did he?

A. Yes, sir, he said he was going on home then to see had my sister come back. And he went on home.

Sol. Kilgo: Your witness.

Cross Examination

By Mr. Hawkins:

Q. Elva, was it your house that Quincy came to?

A. No, sir, that was my sister Lena McKenny in the next door. You see, our lots just join in together, and we go over there and sit with my niece; she is sick.

Q. What kin are you and your sister to Quincy's wife?

A. That is my sister. Quincy Bullock's wife is my sister. And Lena McKenny is my sister.

Q. What did Quincy come over there for this night that you are talking about?

A. Well, see, they generally come down some nights and sit with my niece; she was sick. Lula Mae Blount, she was sick. So he come down. They were to come down that night, so he had went to the store, I think

ELVA BETHEA

he said, to get some cigarettes, and Mattie just walked on down and she stayed a while and she left.

Q. She left before Quiney came?

A. Yes, sir, because I didn't see her when she left.

Q. What did Quiney come there for?

A. He come there for Mattie and they were going to stay a while with the one that is sick; my niece was sick.

Q. Now who is Mattie?

A. That is Quiney Bullock's wife.

Q. And your sister?

A. That's my sister.

Q. And when he came though, your sister Mattie and his wife Mattie, who are the same person, she had already gone?

A. Yes, sir.

Q. So he stayed there with you all for an hour or so talking?

A. Yes, sir.

Q. And left about ten-thirty or eleven o'clock?

A. No, it wasn't eleven. It was somewhere about ten. I'm sorry; it wasn't eleven. It was somewhere about ten when he left because after he left I walked on home and laid down. And he went on out, he walked on out the door and he said, "I'll see y'all again some time."

Q. Now where was that that you were?

A. On Cleveland Street and Fourth Avenue.

Q. Down here?

A. Down here across the Seaboard Railroad.

Q. Down on the other side of the Seaboard Railroad?

A. Yes, sir, on Cleveland Street.

Q. And where did Quiney live then?

A. They live on Fourth Avenue, Uptown.

ELVA BETHEA

W. V. BRANFORD, M.D.

326 Q. And how did he come there?

A. He were riding when he come. He come with a cab. But he walked back. He left walking.

Q. He left walking?

A. Yes, sir.

Mr. Hawkins: That's all.

W. V. BRANFORD, M.D., sworn to tell the truth, the whole truth and nothing but the truth.

Direct Examination

329 By Mr. Gasque:

Q. Doctor, what is your full name?

A. William Victor Branford.

Q. Are you a practicing physician?

Mr. Britt: We admit the doctor's qualifications.

Q. Doctor, were you called on about August 3, 1958, to examine the body of Carolyn Barfield Wolshock?

A. I was.

Q. Where did you examine her, doctor?

A. Where?

327 Q. Where?

A. I first examined her, a superficial examination, at the Williams Funeral Home. Then the body was removed to St. Eugene Hospital, and I continued my examination there.

Q. Will you turn to the jury and tell them what your examination revealed?

A. The initial examination at the Williams Funeral Home showed a young lady between twenty-five and thirty weighing about a hundred pounds lying on the slab dressed in one piece of a dress, one dress, without 328 underclothing. Her body was covered with mud and dirt. She had multiple bruises and abrasions about the

W. V. BRANFORD, M.D.

body. She had multiple gunshot wounds of the body, 329
one of which entered the skull, another the right angle of the jaw, and the third the posterior or back aspect of the right thigh.

The thigh wound was at the level of the intergluteal fold, that is, where the buttocks join to the thigh, and the point of entrance was on the medial or inner aspect of the thigh about eight inches above the knee.

The bullet wound of the mouth was laterally starting at the inner side of the right side of the jaw, fracturing the jaw, and coming out through the left angle of the mouth. 330

The bullet wound of the head showed no evidence of having perforated the skull, therefore, it was our impression, or my impression, that there was a bullet present in the substance of the skull or brain. It was because of this that I requested the body be sent to St. Eugene Hospital for *x*-ray examination at which examination it was found that she did have a bullet embedded in the skull just posterior to the left eye so that the—

Q. (Interrupting) Did you remove that bullet? 331

A. I did.

Q. I will hand you this, Doctor. See if that is the bullet that you removed?

A. It looks similar to the bullet I removed. I handed it directly to the sheriff afterward so I did not check it to be absolutely sure in every respect. That looks very much like the bullet I removed.

Exhibit Offered By Mr. Gasque: The State offers this for identification at this time. Do you have any objection?

Mr. Britt: We can't object to it being offered for 332
identification.

W. V. BRANFORD, M.D.

Exhibit Offered By Mr. Gasque: The State offers the bullet in evidence.

Objection By Mr. Britt: We object on the ground it hasn't been in his possession.

Q. Dr. Branford, who did you turn the bullet over to?

A. To the sheriff. Sheriff Rogers.

The Court: I am not admitting it at this time.

Q. Doctor, will you continue with your findings, please?

A. That was the—the rest of the findings were just as I have stated previously with the exception that the body showed that she had had an operation in the past; there was a scar of the abdomen. And she also—she also had some serosanguineous, some bloody serous, discharge from the vagina.

Q. Doctor, could you determine which bullet caused her death?

A. It was my opinion that the bullet in the brain caused death.

Q. I wish you would indicate on my body just where the bullets went in her, please? Did I understand you to say two bullets passed completely through the body?

A. With the exception of a little fragment in the right jaw, the bullet here (indicating on counsel's jaw) went through here and came out through the angle of the mouth here.

The other bullet went through here (indicating on counsel's upper leg) and came out just about here.

The third bullet was almost straight downward just slightly obliquely to the left just on the line with the ear and about one inch or an inch and a half posterior to the eyebrow.

W. V. Branford, M.D.
Sheriff Jasper D. Rogers

Q. What position would that indicate that Mrs. Wolshock would have had to have been in for the bullet to have been fired? 337

A. It was an indication in that respect that the—whoever fired the shot had to be above the patient.

Q. Doctor, did you examine her neck under the chin?

A. A superficial examination. I examined the entire body.

Q. What did you find under the neck, if anything?

A. All I saw was multiple bruises and abrasions all over the body; they were not distinguishable one from the other. 338

Q. Were there such abrasions and bruises on her neck?

A. There were.

Mr. Gasque: Your witness.

Mr. Britt: No questions.

Sheriff Jasper D. Rogers, recalled.

Direct Examination

By Sol. Kilgo: 339

Q. Sheriff, what time did you enter into the investigation of Carolyn Wolshock's death?

A. About daylight the morning of the third.

Q. Did you join in the search that lasted until her body was found?

A. I did.

Q. Did you see her body where it was found?

A. I did.

Q. Describe the conditions under which it was found.

A. She was laying— 340

Q. (Interrupting) The area.

A. The area?

SHERIFF JASPER D. ROGERS

Q. Yes.

341 A. She was in this swamp known as Maple Mill, a distance of about twenty-five yards. Where the body itself was found was very thick—trees, bushes, honeysuckle vines—very thick.

Q. How far would you estimate or how near would you estimate you would have to be to the body to see it?

A. A distance of ten or fifteen feet at the most.

Q. Were you there when the body was found or shortly thereafter?

A. Shortly thereafterwards.

342 Q. Were you there when it was moved?

A. I was.

Q. Was Quincy Bullock at the scene when it was found to your knowledge?

A. He was not.

Q. And it was found on August 3rd, Sunday?

A. August 3rd, Sunday.

Q. Now the investigation continued as I understand it?

A. That's correct.

343 Q. Beyond Sunday? Did you question and arrest the defendant, Quincy Bullock, some time after Sunday?

A. (Looks at a paper in his hand) I arrested Quincy Bullock about five-thirty Thursday, August 7th. At his home.

Q. Five-thirty Thursday, August 7th? Are those notes you are reading from your notes?

A. My notes.

Q. Tell what took place when you questioned and arrested him on Thursday afternoon?

344 The Court: Wait just a minute. Of course, I don't know what testimony is to follow.

SHERIFF JASPER D. ROGERS

Sol. Kilgo: I think I know—I think I can take care of what your Honor is referring to. 345

Q. You arrested him Thursday afternoon?

A. I did.

Q. Did he on that—on Thursday admit to you that he had anything to do—

The Court: (Interrupting) Gentlemen, go into the judge's office.

Sol. Kilgo: I am trying to avoid that, your Honor.

(Jury retires.)

The Court: Go ahead.

Q. Sheriff, did Quincy Bullock admit to you that he killed Carolyn Wolshock? On Thursday did he admit it? 346

A. He denied it Thursday, August—the day I arrested him he denied it.

Q. Did he deny it the next day, too? I will ask you this. When did he admit it, if ever?

A. He gave us an oral confession Friday—late Friday afternoon.

Q. Was that the second time you questioned him?

A. We questioned Quincy all Friday afternoon, I believe. 347

Q. And earlier Friday afternoon, he would not admit it?

A. That's true.

Q. And later on, he did.

The Court: Now I don't know; I am anticipating, sir, in connection with what our Court has said in one or two cases, one of which I tried.

I do not know—the witness has said something about him making an oral confession. I don't know whether it is your intention to introduce that confession, but if so, Sheriff, I want to ask you a few questions. 348

SHERIFF JASPER D. ROGERS

By the Court:

349 Q. Any statement made to you in the nature of a confession or otherwise by the defendant, Sheriff, where was it made?

A. (Thinking) Judge, to begin with, we questioned Quincy about this gun. Actually, the killing or the murder of Carolyn Barfield Wolshock wasn't mentioned for some time.

Mr. Britt: We can't hear the witness.

Q. I ask you again. Counsel said he couldn't hear. I ask you where was a confession made or other state-
350 ment to you by the defendant?

A. The gun part was mentioned—questioned—to begin with, Judge, after picking Quincy up, we were looking for a .22 pistol, and we questioned Quincy in regard to the .22 pistol.

Q. Let me ask you this. If any statement was made to you by the defendant, was any force used in getting him to make a statement?

A. No, sir.

Q. Was any promise made—

351 A. No, sir.

Q. (Continues) to him?

Q. By you or anyone in your presence?

A. No, sir.

Q. Was any hope held out to him if he would make a statement?

A. No, sir.

Q. Was he put under any threat? Was any threat made to him?

A. No, sir.

Q. Was there any act of violence committed toward
352 him by you or anyone in your presence?

A. No, sir.

SHERIFF JASPER D. ROGERS

Q. Was any promise made to him?

A. None, sir.

Q. That if he would tell you, certain things may be done for him?

A. No, sir.

Q. Was any threat made against him at any time?

A. No, sir.

Q. Did any officer or any other person have his hands about the defendant or try to force the defendant or put fear in the defendant at any time in your presence?

A. No, sir.

Q. If he did make a statement, was it free and voluntary?

A. It was, sir.

The Court: (To defense counsel) Do you want to ask him anything at this time?

Mr. Britt: I think we would have to go into that thoroughly at this time.

The Court: I mean at this time. That wouldn't bar you from asking any other questions later on. That is purely for the information of the judge.

Mr. Britt: We would have to ask him questions along cross examination.

The Court: I mean at this time. Bring the jury out.

Mr. Britt: I think, if the Court please, before you bring the jury out, we should probably ask him some questions.

The Court: You have that right. Don't bring the jury out. You have that right. I just wanted to know if you want to exercise it.

SHERIFF JASPER D. ROGERS

Cross Examination

By Mr. Britt:

Q. Sheriff Rogers, when you first picked the defendant up, he denied knowing anything about the crime. Is that right?

A. He did.

Q. You put him in Dillon County Jail?

A. I did.

Q. And did you question him at length after you put him in jail? Right immediately afterward?

A. I questioned him in regard to a .22 revolver.

Q. Did you question him about the—this alleged—

A. (Interrupting) The day I arrested him, I did not.

Q. That night, did you question him?

A. I did not.

Q. How long did you talk to him? That night?

A. The date of arrest?

Q. Yes.

A. I did not talk to Quincy that night.

Q. You didn't talk to him at all?

A. No, sir.

Q. Did anyone talk to him in your presence?

A. That August 7th?

Q. Yes, sir.

A. Not in my presence, and I don't believe he was talked to.

Q. Then you were holding him on suspicion?

A. That is correct.

Q. When did you again question him after you put him in jail?

A. The following morning.

Q. About what time?

A. (Thinking) I would say 8:30; probably 9 o'clock.

SHERIFF JASPER D. ROGERS

Q. And who was with you?

A. I went to the jail myself first thing next morning and talked to Quincy a few minutes.

Q. Did he admit anything to you?

A. He did not.

Q. Then who did you call in?

A. I came back to the court house, and got with the other officers.

Q. Got who?

A. With the other officers: Mr. Quick, Mr. Allen and Mr. McKinnon, Mr. King.

Q. I see. You were by yourself at first?

A. The first thing that morning, I talked to Quincy for about five minutes, about four or five minutes.

Q. Then you left the jail and came back to the court house?

A. That's true.

Q. And who did you meet at the court house?

A. Mr. Allen, Mr. Quick; Mr. King, I believe; and Mr. McKinnon, I know.

Q. Mr. Allen, Mr. Quick, Mr. McKinnon and Mr. King?

A. That's right.

Q. Mr. King and Mr. McKinnon are State Officers?

A. Right, sir.

Q. What did you then do?

A. We began to look for a—you mean during our investigation?

Q. No, what did you do when you came back to the court house? Did you go back to the jail?

A. Not to begin with.

Q. Where did you go?

A. I am of the opinion I remained at the court house.

SHERIFF JASPER D. ROGERS

Q. You did not go back to the jail?

365 A. I don't think I returned to the jail that morning.

Q. When did you next go to the [redacted] ii—do you know whether or not the other officers went to the jail?

A. If they went to the jail that morning, Mr. Britt, I don't know about it.

Q. Do you know where they went that morning?

A. I don't recall the places they went; I know they went checking on some guns.

Q. Now when did you go back to the jail the next time after eight o'clock that morning?

366 A. I returned Friday afternoon, I'm rather sure.

Q. About what time?

A. I would say maybe three o'clock; two-thirty.

Q. Who was with you?

A. Mr. Quick, Mr. Allen, Mr. King, and Mr. McKinnon that I know of. Some other officer might have been there—Mr. Proctor I'm not sure.

Q. Where did you go?

A. We went from the new jail to the old jail.

Q. Well, did you—

367 A. (Continues) Along with the defendant.

Q. Did you talk to him in the new jail?

A. (Thinking) I don't recall any conversation, Mr. Britt. I might have said something to him after we brought him out.

Q. At that time, he had not admitted anything to you, had he?

A. That's true.

Q. And you and four other officers took him from the new jail and carried him to the old jail?

368 A. No, sir.

Q. Where did you carry him?

SHERIFF JASPER D. ROGERS

A. Mr. Quick and myself carried him over to the old jail.

Q. Where did the other officers go?

A. So far as I know, they were at the new jail.

Q. They didn't come over with you?

A. Mr. King came over either one or two times; possibly twice; once or twice, I'm not sure.

Q. How about Mr. Allen, Harley Allen?

A. I'm not sure that he came to the old jail; he could have.

Q. Would you say that he didn't come to the old jail?

A. I'm not saying he didn't.

Q. Well, the old jail is not occupied, is it?

A. No, sir.

Q. No one lives in it?

A. That's true.

Q. No prisoners in it?

A. That's true.

Q. Where did you take him?

A. Took him to the room that adjoins the old office in the old jail, if you know where I am speaking of. It is on the ground floor of the old jail.

Q. You didn't take him on the second floor of the old jail?

A. No, sir.

Q. You examined him on the first floor?

A. We talked to him.

Q. Did you ever take him on the second floor?

A. We never did.

Q. Who all was present when you examined him or talked to him?

A. We talked to Quincy at the old jail for probably thirty to forty minutes—thirty minutes anyway.

SHERIFF JASPER D. ROGERS

Q. You hadn't found the gun at that time, had you?

A. No, we hadn't.

Q. And he hadn't admitted anything?

A. No, he didn't.

Q. And how long did you talk to him before he admitted where the gun was, Sheriff?

A. We later brought him to the judge's chambers, the next room (indicating behind witness stand).

Q. What did you bring him up there for?

A. Quite a few people gathering up at the old jail; must have been some two or three hundred gathered up there I imagine.

Q. When was that? On Friday?

A. Friday afternoon. We found Mr. Rowell during this period of time. He stated that he did sell Quincy this particular gun. Identified—

Q. (Interrupting) Let's don't—when you brought him up to the court house, who came with you?

A. Myself, Mr. Allen, Mr. Quick, Mr. McKinnon, Mr. King.

Q. All of you. And you took him into the judge's office?

A. Judge's office.

Q. How long did you keep him over there?

A. Probably an hour or an hour and fifteen or twenty minutes.

Q. Did he admit anything there?

A. He admitted he had a .22 pistol.

Q. Did he admit anything else?

A. Not at this particular time.

Q. Then where did you carry him to?

A. He carried us to his house, or we carried him, or we went together, Mr. Allen and Mr. Quick did. And they returned back here with a .22 caliber pistol.

SHERIFF JASPER D. ROGERS

Q. All right. Where did you carry him?

A. How's that? 377

Q. Where did you carry him then?

A. After we left here, we rode by—carried two different cars—I went to Pate's Motel.

The Court: Went where?

A. Pate's Motel. I believe this particular afternoon, Mr. McKinnon left us later in the afternoon and returned to Pate's Motel, and we went by there to pick him up and carried Quincy to the Marion County Jail.

Q. How long did you say you kept him up in the judge's chambers? About an hour and a half or two 378 hours?

A. Mr. Britt, I'm not sure. I would say an hour probably or an hour and fifteen minutes.

Q. Was it dark when you left?

A. If it wasn't dark, it was getting dark.

Q. Did you take him to Pate's Motel then?

A. We took him by there. We didn't take him in.

Q. Did you question him at Pate's Motel?

A. We did not.

Q. Had he admitted anything to you at that time? 379 Other than the gun?

A. Other than the gun, he had not.

Q. And that was Friday?

A. Yes, sir.

Q. You carried him to the Marion Jail?

A. Friday afternoon late or Friday night early, we carried him to Marion County.

Q. Who went with you?

A. Mr. Allen, myself and Quincy was in the car going, and I'm not sure who the other officers were. 380

Q. Was another car following?

SHERIFF JASPER D. ROGERS

A. There was two cars. I don't know whether they
381 followed us or we followed them; I'm not sure.

Q. Did you examine him in the Marion County Jail?

A. In the office we did.

Q. Did he admit anything there?

A. He admitted in the jail yard, before we carried him inside the jail. We sat in the jail yard for some twenty or twenty-five minutes; and on the way there and in the jail yard, Quincy began to tell small—small things as to—

Q. (Interrupting) Who was present?

382 A. In the car or over in Marion.

Q. When he first started?

A. Mr. Allen and myself. And I'm not sure who was the other officers.

Q. All right. What did he tell you?

A. You want the complete story?

Q. You said he started to talking?

A. Quincy would—we would question Quincy. And Quincy would answer me in this manner; he says, "If you say, I done that, I done it."

383 I said, "Quincy, that is not what I want. I want the truth. Did you or did you not do it?"

Q. And he answered you, "If you say I did, I did"?

A. To begin with, he did.

Q. And did you or not then, Sheriff, tell him, "Quincy, I've got enough on you now to send you to the electric chair."

A. I never threatened Quincy with the electric chair all the time I talked to him.

Q. Did you make that statement to him at any time?

384 A. At no time.

Q. "You just as well come on and tell us everything; I've got enough to send you to the electric chair."

SHERIFF JASPER D. ROGERS

A. No, sir, I did not.

Q. Never made that statement?

A. I never threatened Quincy with the chair and I never threatened him.

Q. I asked you did you make that statement to him?

A. I did not.

Q. How long did you keep him at the Marion Jail?

A. (Thinking) I went back and talked to Quincy (thinking) Saturday and Sunday.

Q. All right. Who was with you on those occasions?

A. Mr. Allen was with me at all times.

Q. Was he the only one?

A. No, Mr. Quick was along some time; Mr. Moody sometimes; Mr. McKinnon and Mr. King at times.

Q. When and where, Sheriff, did he admit to you having killed this woman?

A. I got a reasonaly full confession from him setting in the jail yard in Marion County Friday, August the 8th.

Q. Friday night?

A. It was after dark.

Q. August what?

A. August the 8th.

Q. Sheriff, did you ever tell the prisoner that if he didn't tell you the full story that you were going to put him in the electric chair?

A. I did not.

Q. Who was present there in the jail yard with you when he made the confession you say he made?

A. Mr. Allen was present. Sheriff Gasque was present.

Q. Who else?

A. There was several officers there at the time. We were talking to Quincy in the car and I know Mr. Allen

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was there and Sheriff Gasque was there part the time. Mr. King and Mr. McKinnon might have heard part of the confession, or might have heard it all; I'm not sure.

Q. All of you were sitting in one car with him?

A. Quincy was sitting in the back with me. Mr. Allen and Sheriff Gasque were sitting in the front seat of the car. And there could have been someone at the sides; I'm not sure.

Q. Did you or any other officer in your presence place a cotton sheet or cotton sheets over the defendant's head in the jail?

A. No, sir.

Q. Did you or any other officer in your presence, while the cotton sheets were over his head and tied around his body, beat him?

A. No, sir.

Q. You deny that?

A. Yes, sir.

(Jury returns.)

Direct Examination

By Sol. Kilgo:

Q. Sheriff, I believe you stated before the jury went out that you arrested Quincy Bullock on Thursday, August the 5th?

A. August the 7th.

Q. August 7th? Now, Sheriff, I ask you whether or not on August 11, 1958, you received a written statement from the defendant, Quincy Bullock?

A. It was on Monday, August 11th.

Q. And I ask you also if you received another written statement from the defendant, Quincy Bullock, on August 11th?

A. I did.

SHERIFF JASPER D. ROGERS

Q. Now these two statements were given the same day? 393

A. August the 11th.

Q. Now were they the result, Sheriff, of several days' questioning from the date of his arrest on the 7th? These statements?

A. How is that?

Q. Were they the result of several days' questioning and interrogation of the defendant?

A. Yes, sir.

Q. During the interrogation, were you present during all of the interrogation? 394

A. Yes, sir.

Q. During those days, the times this defendant was interrogated, was he ever offered any reward or hope of reward for making a statement?

A. None whatsoever.

Q. Was he ever threatened in any way to your knowledge?

A. He was not.

Q. Was there ever any physical violence exercised against him? 395

A. No, sir.

Q. Was he made any promises?

A. None.

Q. Was he threatened?

A. He was not.

Q. Was he under any compulsion whatever of which you are conscious?

A. None, sir.

Q. Were, in fact, these two statements entirely free and voluntary? 396

A. They were.

SHERIFF JASPER D. ROGERS

Q. Where were they given?

A. In the county jail.

Q. Each one?

A. Each one.

Q. Who was present when he signed the first statement?

A. Mr. Allen and myself and W. B., I am sure.

The Court: And who?

Sol. Kilgo: W. B. Anderson.

A. Mr. Anderson.

Q. And on the second? Who was present?

A. The three of us and possibly Mr. Quick, I am not sure.

Mr. Britt: Possibly who?

A. Mr. Quick.

Q. Were his statements reduced to writing?

A. Yes, sir.

Q. Do these written statements correctly portray what he told you?

A. Yes, sir.

Q. Were these statements each read to him before he signed them?

A. They were.

Q. Did he sign them?

A. He did.

Q. Did you give him a copy of each of these statements at the time he signed them?

A. I did.

Q. Did he sign a receipt for the copy of each of these statements?

A. He did.

Q. Are these statements confessions?

A. Yes, sir.

SHERIFF JASPER D. ROGERS

Sol. Kilgo: We submit they are admissible, if the Court please. 401

Cross Examination

By Mr. Britt:

Q. Sheriff Rogers, you didn't have a typewriter down at the jail, did you?

A. No, sir.

Q. You didn't bring Quincy Bullock up to the sheriff's office to take the statement, did you?

A. No, sir.

Q. Where were the statements themselves prepared?

A. The county jail. In the office of the county jail. 402

Q. Was—I understood you to say you didn't have a typewriter?

A. We carried one.

Q. And were they typed up out in the jail office?

A. In the office of the jail.

Q. And who typed them?

A. Mr. W. B. Anderson.

Q. And what position does he hold with the county?

A. Clerk.

Q. Deputy sheriff? 403

A. Clerk.

Q. Is he a sworn deputy?

A. He is.

Q. Did he take down what Quincy Bullock told him?

A. He did.

Q. And the words that are on here, on these papers, are the exact words that Quincy Bullock told Mr. Anderson to write on the paper?

A. I wouldn't say they were the exact words.

Q. Then who put the exact words on here? 404

A. Well, Mr. Anderson is the one that typed them. Quincy wouldn't give us a statement.

SHERIFF JASPER D. ROGERS

Q. What's that?

405 A. Quincy wouldn't give us a statement.

Q. Wouldn't give you—

A. (Interrupting) Would.

Q. Would?

A. Yes, sir. And we would type it out in those words, or Mr. Anderson would as you say.

Q. Well, he didn't put it down in Quincy's words, did he?

A. Not his exact words.

Q. So this—these statements then are not the exact

406 words that the defendant used, are they?

A. It is possible they are not the exact words, Mr. Britt.

Q. Not possible, but they are not, are they, Sheriff?

A. I doubt they are his exact words.

Q. What you did was you or some other officer told Mr. Anderson what to put on the paper. Isn't that right?

A. I never did tell him what to put on there.

Q. Well, who told him?

407 A. Quincy Bullock.

Q. Well, did he write it like Quincy Bullock told him?

A. I doubt those are his exact words. I am not sure.

Q. Well, then, he didn't prepare it in accordance with what he told him, did he?

A. As near as Mr. Anderson knew, I guess he did.

Q. As near as he knew? Were you present?

A. I was present.

Q. Did you see what he was writing on the paper?

A. I was present.

Q. And you state now that he didn't write them in Quincy Bullock's words that he used?

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A. I am not saying they are exactly Quincy's words. Quincy would make a statement and I'm of the opinion that Mr. Anderson would maybe make a sentence out of it. But I'm not saying the exact wording is just what Quincy (does not complete sentence)— 409

Q. Yes, sir. That is what I understood you to say. Were any erasures done on the statement and other words added?

A. If so, I'm not familiar with them.

Q. Were any periods put on and later commas put and other words added to the end of the sentence?

A. I am not sure, Mr. Britt. 410

Mr. Britt: Then we submit they are not competent, if the Court please.

The Court: Mr. Foreman and gentlemen, I charge you at this time that if a paper is offered into evidence which purports to have been or to be a confession by a defendant, or if a statement is made orally by a defendant and such statement is in the form of a confession, if there be one, and that statement is offered in evidence or if the written statement is offered in evidence, sometimes the question comes up as to 411 whether or not the statement or confession may have been free and voluntarily made, so then, I charge you that if a confession is made and if the purported confession is offered in evidence, if you find it not to have been freely and voluntarily made and without reward or the slightest hope of reward and without fear of any kind, you should disregard it and pay no attention to it. It is for you to say if the defendant made a confession, and if so, whether it was made under duress or in fear or with reward or the slightest hope of reward in view, and if it was, of course, you disregarded 412 it. But if you find it to have been freely made and vol-

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413 untarily made and made without fear or reward or hope of reward or the slightest fear or the slightest hope or the slightest hope of reward or without duress, then you would give it such weight as you deem proper. If you find it to have been involuntarily made by the result of force or fear, don't consider it. But, if you find it, as I say, to have been freely and voluntarily made in conformity with what I have just told you, you have the right to consider it and give it such weight as you deem proper.

Go ahead, Solicitor.

414 *Direct Examination*

By Sol. Kilgo:

Q. Sheriff, do I understand that this is not a stenographic reproduction of the statements of the defendant?

A. That's right.

Q. Have you read both these statements thoroughly?

A. I have.

Q. Is there anything in these statements that Quincy 415 Bullock did not say in substance?

A. That's true.

Q. Is there anything he said, the meaning changed whatever in these statements?

A. None whatever.

Exhibits Offered By Sol. Kilgo: The State offers them in evidence.

The Court: Admitted.

Mr. Britt: And we, of course, object.

The Court: Yes, sir. They are admitted in connection with what I have just charged the jury.

416 (Statements of Quincy Bullock marked State's Exhibit No. 9 and State's Exhibit No. 10.)

SHERIFF JASPER D. ROGERS

Objection By Mr. Britt: If the Court please, we further object because we think that an examination of the written instruments will show that certain wording and punctuation has been changed. 417

The Court: Let me see them, please. (Examines exhibits) All right.

Q. Sheriff, I meant to ask you one other thing. Before Quincy Bullock signed these statements, were they read over sentence by sentence to him?

A. I did myself.

Q. Was that rapidly done or slowly done?

A. Slowly done. 418

Q. Is there any doubt in your mind that he understood everything you read to him?

A. I am sure he did.

Q. And agreed?

A. And agreed.

(Sol. Kilgo reads date and place in publishing exhibit to the jury.)

Mr. Hawkins: (Interrupting) If it please the Court, I would like to show you this before he publishes it.

Here is what I have reference to. On the original, you can see it somewhat; but on that copy there, you can see this is plainly added to it. 419

The Court: Well, that is true, but there is nothing to show me that was done before the statement was signed.

Q. Sheriff, was a single word added to this statement after he signed it?

A. Not after he signed it.

Objection By Mr. Hawkins: May it please the Court, the sheriff stated in answer to Mr. Britt that he didn't know whether anything had been added or substituted or not. 420

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Sol. Kilgo: He was talking about erasures and punctuation.

Mr. Hawkins: That's what we are talking about.

The Court: Sheriff, the paper which the solicitor has in his hand, did you see it signed?

A. I did, sir.

The Court: Has anything been added to that paper since it is alleged to have been signed by the defendant?

A. No, sir.

(Jury retires. Recess. Jury returns.)

(Sol. Kilgo publishes State's Exhibits No. 9 and No. 10 to the jury.)

Q. Sheriff, you stated those two statements were a result of questioning over a number of days?

A. That's true.

Q. When you first commenced questioning the defendant, did he admit owning a pistol?

A. To begin with, no.

Q. He denied owning a pistol?

A. He did.

Q. Did you search his house?

A. I did. We did.

Q. Was that search successful?

A. It was not.

Q. It was not? Did you later talk to the defendant more about a pistol?

A. We did.

Q. And had you any further information at that time concerning a pistol?

A. We did.

Q. What information had you had?

A. We found Mr. Rowell.

Q. Mr. Rowell, the witness who testified?

SHERIFF JASPER D. ROGERS

A. Who just testified.

Q. Did you tell the defendant what Mr. Rowell has said on the stand here today or approximately that?

A. I did.

Q. In substance, that—

A. The—

Q. (Interrupting) And after you told him that, what did he then have to say about owning a pistol?

A. He still denied the ownership of any pistol.

Q. What transpired next in connection with the ownership and location of a pistol?

A. We later got in touch with Elva Bethea who just testified. She told Quincy—

The Court: No.

Mr. Britt: No.

Sol. Kilgo: I didn't hear what he said.

The Court: He started to say, "She told—and I stopped him.

The Witness: Told Quincy Bullock.

Q. Did you talk with the Bethea woman?

A. I did.

Q. His sister-in-law?

A. I did.

Q. Did you talk with her in the presence of Quincy Bullock?

A. I did.

Q. Did she make any statement to Quincy in your presence?

A. She did.

Q. And what was the substance of that statement?

A. She told Quincy, in the judge's chambers, about him coming to her sick sister's house with a pistol. She did not describe the pistol or did not know what type of gun it was. But she measured off in her hands in this

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429 manner (holding his hands a little distance apart), she says, "Quincy, you pulled out a gun about this long," and says, "While you were playing with it, that round thing," She called it a "round thing" which is the cylinder—"Fell on the floor," and says, "Those balls fell on the floor, and you picked them up one by one until you counted to nine."

Q. All right. What happened after she told Quincy Bullock that in your presence?

A. Some five or ten minutes later, Quincy, Mr. Harley Allen, and Mr. Quick left the court house and re-
430 turned back here with Quincy and a .22 pistol, revolver, H & R.

Q. You did not go with them?

A. I did not go with them.

Q. Now, Sheriff Rogers, after Quincy Bullock signed the first statement here, Exhibit No. 9, did you go with him to the cemetery, Mount Holly Cemetery?

A. I did.

Q. Tell what took place there?

A. Before or afterward?

431 Q. After State's Exhibit No. 9, the long statement, and before Exhibit No. 10, the short statement.

A. Of course, he carried us there before.

Q. Before both statements?

A. Before the statements.

Q. Was it on August 11th?

A. August 11th, yes, sir. Of course I returned there on Sunday night before the statements with Quincy and Mr. Allen.

Q. You went to the cemetery with Quincy and Mr.
432 Allen on Sunday night and also on Monday?

A. Yes, sir.

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Q. Tell what the defendant did at the cemetery?

A. Sunday night, Mr. Allen and myself went to Marion and picked Quincy up and came back into Dillon. We were talking about the graveyard and the various roads in the graveyard. Quincy was telling me how he entered the graveyard and the road he took. And I, at this time, was not familiar with the roads; and I told Quincy, I says, "I am of the opinion that road is not there." Quincy says, "It is there. I'll go show you." We entered the graveyard about ten o'clock Sunday night, and Quincy showed me the road that he walked in and struck off to the left and come up back of the car and put me on the road that I was not familiar with, and he told me at this time, says, "Now ain't I telling the truth?" I was not familiar with the roads and he was proving to me that he was telling the truth.

Q. Did he convince you and prove to you that he was correct in the layout of the roads and you were incorrect?

A. That's correct.

Q Now did you have occasion to go with Quincy Bullock on August 11th to the spot where Carolyn Barfield's body was found?

A. I did.

Q. What time of day did you go?

A. The morning part of the day.

Q. In the morning? How far did you go by automobile? Or how near the spot did you go by automobile?

A. Where the body was found?

Q. Yes, sir.

A. We went within two hundred yards.

Q. Now did you get out from the automobile then?

A. We did.

SHERIFF JASPER D. ROGERS

Q. Who was with you and Quincy Bullock?

437 A. Mr. Allen and Mr. Quick were the officers.

Q. Now did you or Mr. Allen or Mr. Quick or anyone else in your group or anyone there show Quincy Bullock where to go?

A. We did not.

Q. Who walked in front?

A. Quincy was fifteen or twenty paces ahead of us at all times.

Q. And where did he take you?

A. He took us down on the west side of Maple 455 Swamp, across the cotton field, and came to a corn field —this was in the end of the rows next to the swamp. He crossed over about six or seven corn rows and entered the swamp. He walked in approximately twenty to twenty-five yards (Pauses while train goes by).

He entered the swamp about twenty or twenty-five yards; he stopped and looked around. He says, "Someone's been in here," or "mashed some vines down." He kept turning around, or looking in various directions. After some three or four minutes—he was facing the 459 opening or the corn field—he turned and looked to his left and entered a very thick place. He walked over. He looked down. He says, "I'm quite sure," or "I think this is the place."

Q. Did he point to the spot?

A. He pointed directly, directly where the body of Carolyn was found.

Q. And you had asked him to take you to the spot where he left the body?

A. I had.

Q. Did anyone coach him or prompt him or give him 460 any help at all in finding the spot?

A. None whatsoever.

SHERIFF JASPER D. ROGERS

Q. And how far was that spot away from Mount Holly Cemetery? 441

A. I would say it was a mile and a quarter.

Q. A mile and a quarter?

A. Or a little further.

Q. You saw her body before it was moved?

A. I did.

Q. Was it on the same spot that he pointed to?

A. Identical spot.

Q. And how near would you have to be to that spot to see it?

A. (Thinking) Fifteen feet. Approximately. 442

Q. Did he then tell you anything about how he shot her and what positions he was in?

A. At this particular time, at the time Quincy was in the—across the swamp, Quincy denied shooting her there.

Q. Did he ever show you at that spot how he shot her?

A. He did.

Q. And what position she was in?

A. Not at that spot, but he later told me the position she was in and how he done it. 443

Q. What did he tell you?

A. At the time we were in there, he put Mr. Allen in the position Carolyn was sitting in, and at this particular time, he stated that he left her in that same position.

Q. That was when he was at the spot where her body was found?

A. Some time later, he tells me that she was sitting in that same position that he had placed Mr. Allen, he walked around on her right, pulled his gun and fired into her head one time. 444

SHERIFF JASPER D. ROGERS

Q. From overhead?

A. That's right. While she was sitting.

Sol. Kilgo: Your witness.

Cross Examination

By Mr. Britt:

Q. Sheriff, you were the one suggested that Quincy Bullock go down and show you just how the situation was down there when he was there?

A. Yes, sir.

Q. He didn't go freely and voluntarily? You took him down there to show you?

A. Quincy seemed very eager to show us in detail everything—

Q. (Interrupting) But you were the one suggested it?

A. I might have suggested it.

Q. But you did as a matter of fact?

A. I probably did.

Q. No. Didn't you, Sheriff? Not probably?

A. I did then.

Q. Yes, sir. That's what I wanted. And you took him down there and you said, "Now, Quincy, I want you to show us just how this thing happened," didn't you?

A. I asked him to show me.

Q. Yes, sir. And when he—when he didn't fill all the details out, you helped him to fill some out, didn't you?

A. I didn't help him fill anything out.

Q. You suggested some things to him?

A. I asked him questions. He would ask me questions. We would answer each other.

Q. You said, "You go up this sewer line just like you went."

A. I never did go up the sewerage line with Quincy.

SHERIFF JASPER D. ROGERS

Q. You didn't go with him?

A. No, sir. 449

Q. Who went with him?

A. At the time of the reconstruction, no one went with him.

Q. That's what I'm talking about?

A. No one went with him.

Q. He went by himself?

A. He carried us to the graveyard. He showed us where the car was parked; where he was standing; about the doors being opened; he parked the car in; he placed the two people in the car; told us how they 450 ran; how she hollered for help.

And after we finished at the graveyard, we went by car around to the far side.

Q. You didn't go up there?

A. We did not go through the swamp at this particular time.

Q. Did you later go up with him?

A. No, sir.

Q. You never did go up with him?

A. No, sir, not with Quincy.

Q. You never did take and go the route? 451

A. Not with Quincy.

Q. Sheriff, you have bullets that came out of this dead woman's body, do you not?

A. Yes, sir.

Q. You have had them examined by a ballistics expert, have you not?

A. Yes, sir.

Q. Is he present in court?

A. Yes, sir.

Q. You have the bullet that was removed from 452 Horne's body, do you not?

SHERIFF JASPER D. ROGERS

A. Yes, sir, I feel sure we do.

Q. That has been examined by a ballistics expert, has it not?

A. Yes, sir.

Q. And he is here in court prepared to testify?

A. Yes, sir.

Q. And when you were examining the witness (*sic.*) about what he did and how things happened, he did tell you, "If you say so, I did," didn't he?

A. That's how he answered me to begin with on August 8th, I believe, Mr. Britt.

Q. And you asked him about other places besides this particular place, did you not? About where he was on that night?

A. I did.

Q. And did he not say, "If you say so, I was there?"

A. When Quincy first started his confession, he answered me in that manner for about two different times.

Q. Yes, sir.

A. And I told Quincy, I said, "I do not want that as an answer. I want the truth." And he later told me the truth as far as I know.

Q. And that you had enough on him to put him in the electric chair then?

A. No, sir, I never mentioned electric chair to Quincy Bullock.

Mr. Britt: That's all.

Re-direct Examination

By Sol. Kilgo:

Q. Sheriff, did Dr. Branford give you a bullet?

A. He did, sir.

Q. What did you do with it?

A. I gave it to Lt. Wilson.

SHERIFF JASPER D. ROGERS

Q. Did anyone else give you a bullet?

A. Mr. Allen, I believe, gave me a bullet.

Q. The other one?

A. Yes, sir.

Sol. Kilgo: Thank you.

The Court: Any other questions?

Mr. Britt: No, sir.

By the Court:

Q. What did you say you did with the bullet that was given to you?

A. I labelled the bullet and turned it over to Lt. Wilson of the South Carolina Law Enforcement Division.

Q. Lieutenant who?

A. Wilson.

Re-direct Examination

By Sol. Kilgo:

Q. (As the witness is leaving stand) Did Mr. Allen give you a bullet, too?

A. (remainder of answer inaudible)—

Objection by Mr. Britt: I don't think the solicitor and the sheriff ought to have a private conversation, if the Court please.

Sol. Kilgo: Go back on the stand, Sheriff.

Q. (After the witness resumes stand) Do you recall whether Mr. Allen gave you a bullet?

A. I am of the opinion that Mr. Allen gave me a bullet that came from Mullins that he received.

Q. If he did, what did you do with it?

A. I labelled it.

Q. And did what with it?

A. Turned it over to Lt. Wilson.

HARLEY ALLEN

Mr. HARLEY ALLEN, recalled.

Direct Examination

By Sol. Kilgo:

Q. Did anybody turn a bullet over to you in this case?

A. Yes, sir.

Q. Who did?

A. Jimmy Horne.

Q. What did you do with it?

A. Turned it over to Sheriff Rogers.

Cross Examination

By Mr. Britt:

Q. You say Jimmy Horne turned it over to you?

A. Yes, sir.

Q. He is one of the people got shot?

A. Yes, sir.

Q. Is he here today?

A. When he first went up here, he come—

Q. (Interrupting) Is he here?

A. Sir?

Q. Is Jimmy Horne here today?

A. No, sir.

Re-direct Examination

By Sol. Kilgo:

Q. Where is he?

A. He is in the Veteran's Hospital in Columbia.

Q. What is his condition?

A. Paralyzed.

Mr. Britt: If he knows.

Q. Have you all made an effort to get him here?

A. Yes, sir, we offered to send an ambulance after him.

J. S. GARNER, M.D.

J. S. GARNER, M.D., sworn to tell the truth, the whole truth and nothing but the truth.

Direct Examination

By Sol. Kilgo:

Q. Dr. Garner, you are a practicing physician in the town of Mullins?

A. That's right.

Sol. Kilgo: (To defense counsel) Do you admit his qualifications?

Mr. Britt: I am sorry; I'm not acquainted with the gentleman.

Q. Are you a graduate of an accredited medical college?

A. Yes, sir.

Q. Are you licensed to practice your profession?

A. Yes, sir.

Q. How long have you practiced your profession?

A. I was licensed in 1946.

Q. Have you practiced your profession continuously from 1946 to now?

A. Yes, sir.

Q. Did you have occasion to treat one Jimmy Horne?

A. Yes, sir.

Q. Did you have occasion to remove anything from him?

A. Yes, sir.

Q. What did you remove?

A. A bullet.

Q. From where?

A. His shoulder.

Q. Which shoulder? Do you recall?

A. (Thinking) I believe it was his right shoulder. I'm not completely certain, but I think so.

J. S. GARNER, M.D.

469 Q. Do you recall what caliber bullet it was? Would you know?

A. The best I can say it was a small bullet. I don't know much about guns or firearms.

Q. Would you recall whether that is it or not? (Handing witness bullet) Do you recognize it as being—

A. (Witness holds both hands out palm upward.)

Q. Does it look like it?

A. It looks about like it. I would hate to say it was or was not.

470 Exhibit Offered By Sol. Kilgo: The State offers it for identification. (Bullet marked State's Exhibit No. 3 for Identification)

Q. What did you do with it?

A. Well, not knowing what it was all about, I gave the bullet to Horne.

Q. You gave it to Horne?

A. Yes, sir.

Q. Do you recall when that was?

A. August 3rd.

471 Q. Do you recall what time of day it was you gave it to him?

A. Some time between nine-thirty and ten-thirty in the morning.

Sol. Kilgo: Thank you, doctor.

Mr. Britt: No questions.

Exhibit Offered By Sol. Kilgo: Now, if the Court please, the State offers in evidence the bullet Dr. Branford from the head of Carolyn Barfield Wolshock and turned over to Sheriff (Does not complete statement).

Lt. Wilson.

472 Mr. Britt: Is the Solicitor offering it in evidence or calling a witness?

M. N. CATE

Sol. Kilgo: I am withdrawing my offer and calling Mr. Cate.

Mr. M. N. CATE, sworn to tell the truth, the whole truth and nothing but the truth.

Direct Examination

By Sol. Kilgo:

Q. Lt. Cate, by whom are you employed?

A. South Carolina Law Enforcement Division, Columbia.

Q. And in what capacity are you employed?

A. I am an identification technician. My job is the identification of bullets, cartridge cases, footprints, fingerprints.

Q. What training have you had in your particular field?

A. I have completed courses with the Institute of Applied Science, the International Criminology School, a graduate of the F.B.I. Academy. I have testified in the majority of the courts here in the state. I have made hundreds of comparisons and identifications, and I have been in this work twelve years.

Q. I hand you a bottle with a label on it that the contents were removed from Carolyn Barfield Wolshock and ask you where you got it?

A. Well, I received this piece of bullet or fragment of bullet from Lt. Wilson of our division on Tuesday night, August 5th, at our headquarters.

Q. In Columbia?

A. Yes, sir. Around nine P. M., I believe.

Q. Did you run any—I also hand you a pistol, a State's Exhibit in this case, a .22 revolver, and ask you if you have seen that before?

M. N. CATE

477 A. This is a .22 caliber H. & R. revolver; I received that from Agent Gasque of our division on August 9th this year at our headquarters shortly after midnight the morning of August 9th.

Q. Now, Lt. Cate, what is the caliber of the revolver you hold in your hand?

Objection By Mr. Britt: We submit that the pistol has not been offered in evidence, if the Court please.

Sol. Kilgo: It is offered for identification; this is for further identification.

Mr. Britt: The questions that the solicitor is asking
478 the solicitor is referring to it as being a pistol owned by this defendant.

Sol. Kilgo: I thought I referred to it as the pistol he has in his hand.

The Court: Repeat your question, and I will pass on it.

Q. Where did you get the pistol you hold in your hand?

A. I received it on August 9th around midnight, the early morning, from Agent Gasque of the South Caro-
479 lina Law Enforcement Division at our headquarters in Columbia.

Q. Now did you run certain ballistics tests with that pistol and other cartridges with reference to the cartridge you have in your hand?

A. I have a bullet in my hand.

Q. Bullet? I beg your pardon?

A. Yes, sir, I did.

Q. Will you give the result of that, please?

A. Well, I fired—

Objection By Mr. Britt: If the Court please, we sub-
480 mit that the bullet has not been offered in evidence. The witness is now testifying about two articles he

M. N. Cate
Harley Allen

holds in his hand which have not been offered in evidence, and as to what the identification as to both is and I presume is going to testify as to whether or not they came from—the bullet came from the gun.

Sol. Kilgo: Your Honor, we can't offer them in evidence until we prove they have something to do with the case.

Mr. Britt: We submit he can offer them in evidence if they are the pistol that came from this man's house.

Sol. Kilgo: We haven't proven that yet.

Mr. Britt: I understood the sheriff to say that the gun came from there.

Sol. Kilgo: He said that someone else came back from his house.

The Court: Do you have any objection to the pistol going in?

Mr. Britt: I object to them at this time. I think they ought to be identified and put in evidence before the witness testifies as to the markings themselves.

The Court: That would be the better procedure.

Sol. Kilgo: We will recall Lt. Cate. I was just trying to save time.

(The witness Cate comes down.)

Mr. Harley Allen, recalled.

Direct Examination

By Sol. Kilgo:

Q. Mr. Allen, did you have occasion to go to the home of Quincy Bullock?

A. Yes, sir.

Q. After the Bethea woman, his sister-in-law, and Mr. Rowell—after Quincy Bullock was told what they had to say about a pistol?

HARLEY ALLEN

A. I went there after we faced Quincy Bullock with Mr. Rowell and his sister-in-law, and he told me—

Q. (Interrupting) Now was that after you had once searched his house for a pistol?

A. Yes, sir.

Q. And failed?

A. Yes, sir.

Q. And after being confronted with these witnesses, did you go with the defendant to his house?

A. Yes, sir.

Q. What happened?

A. Well, we went to his house with him; he looked in two places and he didn't find it. He walked in his bedroom and started to go to the wall of his bedroom. And I told him, "Wait a minute, Quincy; I'll get the gun." And he stood there and I pulled the bed to one side and walked back there and I seen where this loose piece of ceiling was under the window in the wall of the house, and I taken that a'loose and reached down in there and pulled out a .22 nine-shot pistol.

Q. Is this the pistol that you found there?

A. (Examines pistol) Yes, sir.

Q. What did you do with it?

A. Turned and brought it back and turned it over to Sheriff Rogers.

Q. Is this a picture of where you found the pistol?

A. Yes, sir.

Exhibit Offered By Sol. Kilgo: The State offers in evidence this picture.

Mr. Britt: No objection.

(Photograph of wall where pistol was located marked State's Exhibit No. 11.)

HARLEY ALLEN

Cross Examination

By Mr. Britt:

Q. When you went to the house, you went with Quiney, is that right?

A. That's right.

Q. And did he tell you before you left the court house where in the house the pistol was located?

A. No, sir, he only told me he would go with me after it.

Q. Then when you got to this house, did he tell you where the pistol was?

A. Not right then; he looked in two different places and then went to this place.

Q. Well, I understood you to say that time you told him, "Wait a minute, Quiney; I'll get the pistol?"

A. That's when he started to the back of the bed; pulled the bed back and was—

Q. (Interrupting) Was the place where the pistol was beside his bed?

A. It was beside his bed in the wall between the ceiling and the weatherboarding up under the window.

Q. Was the board that was there nailed on to the wall?

A. Well, there was a nail drove in at each end where you could turn it and pull that board out.

Q. In other words, it was more or less of a place where you could just remove it out by turning nails one way or the other?

A. That's right.

Q. A loose small board. How long was it?

A. Well, I would say it was approximately that long (indicating around 2½ feet); well, from one post to the other.

Q. Did he point out and show to you that place?

HARLEY ALLEN
SHERIFF J. D. ROGERS

493 A. Yes, sir.

Q. Did he tell you that that was where he kept his pistol?

A. Yes, sir.

Q. Now the pistol that you have there in your hand, you turned it over to whom?

A. Sheriff Rogers.

SHERIFF J. D. ROGERS, recalled.

494

Direct Examination

By Sol. Kilgo:

Q. Sheriff, what did you do with the pistol after Mr. Allen gave it to you?

A. I gave it to Agent Gasque.

Sol. Kilgo: Come down.

The Court: Wait a minute.

Cross Examination

By Mr. Britt:

495 Q. Were you all passing this around?

A. (Smiling) I sent it to Columbia by him.

Q. You didn't deliver it to them?

A. I gave it to Agent Gasque to carry to Columbia.

Q. I understood you to say you sent it to them?

A. I gave it to them.

496

LEON GASQUE, JR.
LT. JAS. K. WILSON

Mr. LEON GASQUE, JR., sworn to tell the truth, the whole truth and nothing but the truth. 497

Direct Examination

By Sol. Kilgo:

Q. What did you do with the pistol?

A. I carried it to Columbia; arrived about twelve-thirty and gave it to Mr. Cate.

Q. Lt. Cate?

A. Lt. Cate. Yes, sir.

Cross Examination 498

By Mr. Britt:

Q. When did you give it to him?

A. About twelve-thirty in the morning; I left the motel here about ten-thirty; it took two hours to go to Columbia.

Q. Did you put the label on the pistol?

A. No, sir, it was done after I got with Mr. Cate.

Q. Did you make an examination of the pistol or the bullet?

A. No, sir, I am not a ballistics man. 499

Q. What is your job?

A. I'm an investigator.

Lt. JAS. K. WILSON, recalled.

Direct Examination

By Sol. Kilgo:

Q. Lt. Wilson, did Sheriff Rogers give you bullet that he stated was given to him by Jimmy Horne or Harley Allen? 500

A. Yes, sir.

LT. JAS. K. WILSON
M. N. CATE

501 Q. Is that it?
A. That's it.
Q. What did you do with it?
A. I gave it to Lt. Cate at our headquarters.
Mr. Britt: Come down.

Mr. M. N. CATE, recalled.

Direct Examination

502 By Sol. Kilgo:
Q. Lt. Cate, did Agent Gasque deliver to you a pistol?
A. Yes, sir.
Q. Is this it?
A. That is it.
Exhibit Offered By Sol. Kilgo: The State offers in evidence .22 pistol. Do you have any objection?
Mr. Britt: No objection.
(Pistol previously marked State's Exhibit No. 2 for
503 Identification now marked State's Exhibit No. 12.)
Q. Now, Lt. Cate, did Lt. Wilson deliver to you this bullet?
A. Yes, sir.
Exhibit Offered By Sol. Kilgo: The State offers in evidence container containing an object labelled "Jimmy Horne Bullet."
Mr. Britt: No objection.
(Jimmy Horne bullet marked State's Exhibit No. 13.)
504 Q. Now, Lt. Cate, did Sheriff Rogers deliver to you another bullet labelled "Removed from Carolyn Barfield?"

M. N. Cate
Lt. Jas. K. Wilson
Lt. M. N. Cate

505

A. No, sir, that bullet was also received from Lt. Wilson at the same time the other one was.

Sol. Kilgo: All right. Come down.

Lt. Jas. K. Wilson, recalled.

Direct Examination

By Sol. Kilgo:

Q. Did Sheriff Rogers deliver to you the contents of that bottle?

506

A. Yes, sir, he did.

Q. Did he tell you they came from the head of Carolyn Barfield?

Objection By Mr. Britt: We submit that is not competent.

Sol. Kilgo: We withdraw it.

Q. What did you do with it?

A. Gave it to Lt. Cate at our headquarters.

Cross Examination

By Mr. Britt:

507

Q. You all were just passing these things around, Lieutenant?

A. (No answer.)

Lt. M. N. Cate, recalled.

Direct Examination

By Sol. Kilgo:

Q. Did Lt. Wilson deliver to you the contents of this package?

508

A. Yes, sir.

LT. M. N. CATE

Exhibit Offered By Sol. Kilgo: The State offers in
609 evidence bullet removed from head of Carolyn Barfield Wolshock.

(Bullet removed from Wolshock considered State's Exhibit No. 14.)

Q. Now, Lt. Cate, I hand to you a .22 caliber revolver, Exhibit No. 12 for the State, a bullet labelled "Jimmy Horne Bullet," Exhibit No. 13 and another bullet labelled "Carolyn Barfield Wolshock", Exhibit No. 14.

Now did you conduct certain tests in connection with
610 those three articles?

A. I did, sir.

Q. Will you tell the jury what the result—the nature and result of those tests were?

A. I fired test shots into a bullet trap—that is a box of cotton—and recovered these test bullets to compare with the evidence bullets here under the comparison microscope. The comparison microscope is actually two microscopes in one; the evidence bullet is mounted under one and the test bullet under the other.
611 There is a prism arrangement that brings the two images into a single eyepiece. The bullets are mounted on chucks; they can be rotated and moved back and forth. In this single eyepiece, you have your two bullets, two images, together for comparison. And this is the manner in which I compared the test bullets with the evidence bullets.

Now when a bullet passes through the barrel of a weapon, it—the peculiarities of the barrel of that weapon, the classes and characteristics, are transmitted to the surface of that bullet. The weapon gets its peculiar-
612 ities from the tools that are used to fashion the barrel of the weapon and later from wear and so on; and

LT. M. N. CATE

these minute characteristics become peculiar to that 513
weapon and no other weapon.

Now in comparing the bullet here labelled from the lady victim, Mrs. Barfield, I found that although the class characteristics lined up, there is not a sufficient surface left unmarked to establish a positive identification. The only thing that I could say about this bullet is that it could have been fired by an H. & R. revolver.

Now, the Jimmy Horne bullet, when it was compared, I found identifying characteristics and peculiarities and found that it was the same as the best bullet fired from this gun and concluded from that comparison that the Jimmy Horne bullet was fired from this gun. 514

Q. Now, Lt. Cate, as I understand the result of your tests would be this. That your conclusion is that the bullet removed from the shoulder of Jimmy Horne was fired by that pistol?

A. Yes, sir.

Q. And that your conclusion is that the bullet removed from Mrs. Wolshock could have been fired from 515
that pistol?

A. Yes, sir.

Q. Is there any reason for you to think it was not fired from that pistol?

A. No, sir.

Q. Any ballistic reason?

A. There is no kind of definite identification can be made with this bullet because it is too badly damaged —either positive or negative.

Q. Too badly damaged? 516

A. Yes, sir.

LT. M. N. CATE

Q. In other words, as I understand it, ballistically
517 speaking there is no way, with the bullet in the condition that the one removed from Mrs. Wolshock is, there is no way to say positively what weapon it was fired from?

A. Other than the weapon it came from had the same land and groove standards as an H. & R.

Q. From your experience and training as a ballistics expert, are you able to state positively the caliber of bullet removed from Mrs. Wolshock?

A. The bullet that was removed from Mrs. Wolshock
518 has lost considerable weight. It now weighs twenty-one grains which is less—which is eight grains less than the weight of a .22 long or a .22 short. The .22 long bullet and the .22 short bullet weigh twenty-nine grains. The .22 long rifle weighs thirty-nine grains. The difference is this. The .22 short has a short cartridge case and a short bullet. The .22 long has a long cartridge case and a short bullet. The .22 long rifle has a long cartridge case and a long bullet. So this particular bullet here could have been from a long or
519 a short; I have no way of telling.

Q. Is there any more evidence to indicate it came from any other weapon than that one

A. Here?

Q. Yes, sir.

A. No, sir.

Q. Then it could have been fired from that weapon?

A. It could have been fired from this weapon or any other weapon having the same standards.

Q. The same what?

520 A. The same lands and groove standards. So far as I know of my own knowledge.

LT. M. N. CATE

Cross Examination

By Mr. Hawkins:

Q. With respect to the bullet that was allegedly removed from Mrs. Wolshock you state that you cannot state that the bullet was fired from the weapon that you hold in your hand?

A. No, sir, it is too badly damaged.

Q. Now with reference to the other bullet which was allegedly removed from the shoulder of Jimmy Horne, you do state that it was fired from that gun?

A. Yes, sir.

Q. Let us see that bullet that you have there from Jimmy Horne?

A. Damaged on one side. Good condition on the other side.

Q. What would make—what caused the indentation on the side and rear——

A. (Interrupting Could I see that one?

Q. (Continues question) of this ball?

A. This bullet was either damaged by something before it struck the body or something after it struck the body or damaged after it was taken from the body. Now I have no way of knowing but it is in exactly the same condition that I received it in.

Q. Now how could the body or base of the bullet be damaged while it was in motion without having some damage done to the head or top of the bullet?

A. Well, that bullet comes out of there, it is pretty hot. And the nose is a little more substantial and it has more penetrating effect than the big (round) (mound?) base, and take bone for instance, it might have been squeezed into a bone—I don't know whether it hit a bone or not. It might have ricocheted off of something; I don't know.

LT. M. N. CATE

Q. If this ball that I hold in my hand which you have just given me would strike a hard substance as it passed head-on, would it make any indentation on the head of it?

A. Ordinarily it would flatten the nose of that bullet and curl it back over the base.

Q. If this ball that I hold in my hand had gone through a piece of heavy automobile window glass, would it have made a mark on the head or top of the bullet?

A. There would be—there would be evidence of glass scratches on the nose of the bullet; and the bullet itself would be as flat as a pancake. Ordinarily.

Q. Well, would you say that this bullet that I hold in my hand had penetrated any glass?

A. In my opinion, that bullet has not been through glass.

Q. Did you examine any other bullets?

A. Yes, sir, I did.

Q. In connection with this case?

A. Yes, sir, I did.

Q. Do you have those with you?

A. No, sir, that belongs to the State of North Carolina, the State Bureau of Investigation. The investigation agent.

The Court: Wait a minute.

Q. Did you examine any other bullets that were allegedly used in this case?

A. Well, what I was fixing to say was for comparison. But there were no other bullets in this case turned over to me, no, sir.

Mr. Hawkins: That's all.

The Court: Wait just one minute.

(To bailiff) Take the jury to their room.

LT. M. N. CATE

(Jury retires.)

(Lines 4 through 10 above read by stenographer.)

The Court: Now, all that I wanted to be careful about was that I don't want anything in this case about some other case. Do you see what I mean? I don't know anything about it myself; never heard of it. But I just don't want the impression to get out that the defendant might have been engaged in other cases. I don't know.

The Witness: Your Honor, could I—

The Court: No, sir. Just a minute. You see what I mean, gentlemen?

Mr. Hawkins: Yes, sir, I see what you mean.

The Court: Now I don't know what that was, but I will instruct the jury, if you deem it proper, not to consider any reference to any other case in North Carolina because I don't know who that refers to.

Cross Examination

By Mr. Hawkins (Jury Out):

Q. Who does that refer to?

A. It does not involve the defendant here at all.

Mr. Hawkins: If your Honor would allow me to ask that question in the presence of the jury?

The Court: That will be all right. I just don't want to get into any trouble.

(Recess.)

(Jury returns.)

(Polling of the jury waived by counsel for the State and the defendant.)

Cross Examination

By Mr. Hawkins:

Q. Lt. Cate, I will ask you one other question. You made mention of examination of bullets which were

Lt. M. N. Cate

Alvin Bailey

the property of the State of North Carolina. Do they have any reference whatsoever to this case?

A. At that time, they thought—

The Court: Just answer the question.

A. None whatsoever, no, sir.

Q. Do they have any reference whatsoever to this weapon that you have introduced in evidence?

A. Definitely, no.

Sol. Kilgo: Come down.

Mr. Alvin Bailey, sworn to tell the truth, the whole truth and nothing but the truth.

Direct Examination

By Mr. Gasque:

Q. Mr. Bailey, where do you live?

A. On East Dargan.

Q. Is that in the Town of Dillon?

A. Yes, sir.

Q. How long have you lived in Dillon?

A. Aout fifty years.

Q. What do you do for a livelihood?

A. Sir?

Q. What do you do to earn a living?

A. Taxi.

Q. Did you—were you working on the morning of August 3, 1958?

A. Yes, sir.

Q. Did you receive a call to go pick up a passenger?

A. Yes, sir.

Q. Where did you go?

A. I got a call to go to Pee Dee Trading Post, Cecil Tyler's.

ALVIN BAILEY

Q. Did you go to the Pee Dee Trading Post?
A. No, but I started. I didn't get quite all the way.
Q. Did someone flag you before you got there?
A. Yes, sir.
Q. And who was it?
A. Quincy.
Q. Do you know Quincy Bullock?
A. Yes, sir.
Q. Do you see him in the court house?
A. Yes, sir.
Q. Where is he?
A. There is he (indicating defendant).
Q. Did you stop and pick him up?
A. Yes, sir.
Q. Did he ask you to take him some place?
A. I asked him did he call and he said he had them to call from out there and he wanted to go home. He asked me how much it would be and I told him fifty—
Q. (Interrupting) Speak out a little louder, Mr. Bailey. We can't hear you.
A. He wanted to go home and I told him it would be a fifty cents trip. He said, well, he wanted me to wait on him about a few minutes to change clothes.
Q. Did you take him home?
A. Yes, sir.
Q. What was his appearance at the time he got in your taxicab?
A. Well, he was wet from his knees down.
The Court: I couldn't hear. Speak out a little louder.
A. He was wet from the knees down.
Q. Did he tell you where he had been?
A. He said he had been out drunk all night.
Q. And where did you take him from the Pee Dee Trading Post?

ALVIN BAILEY

A. Taken him home.

Q. And where did he live?

A. On Fourth Avenue.

Q. Did you wait for him there?

A. Yes, sir.

Q. Had he changed clothes when he came out?

A. Yes, sir.

Q. And where did you take him from there?

A. Taken him to the Pee Dee Que Restaurant.

Q. And where is that?

A. On 301 North.

Q. Did he make any other statements to you?

A. No, sir, he didn't.

Q. How far was he from the Pee Dee Trading Post when he flagged you?

A. I will say about seventy-five yards coming towards town meeting me.

Mr. Gasque: Your witness.

Cross Examination

By Mr. Britt:

Q. What time of day was it?

A. I got the call around eight twenty-five; around eight-thirty when I got out there.

Q. That was well up in the morning?

A. At eight-thirty in the morning. Yes, sir.

TESTIMONY

Mr. Harley Allen, recalled.

Direct Examination

By Mr. Gasque:

Q. Mr. Allen, were you present when Quincy Bullock made two confessions on August 11, 1958?

A. Yes, sir.

Q. I will hand you these and ask you are they the confessions that he made?

A. (Looks at papers) Yes, sir.

Q. Mr. Allen, did you offer him anything if he would make those confessions?

A. No, sir.

Mr. Britt: The confession is already in the record.

Q. You were present when he signed them?

A. When he signed them?

Q. Yes, sir.

A. Yes, sir.

Objection By Mr. Britt: We submit the record speaks for itself; there is no need to go into it, if the Court please.

The Court: Yes, sir, the paper is before the Court and its contents. I think they have a right to ask him about under what circumstances it may have been executed.

Q. Was the statement made free and voluntary?

A. Yes, sir.

Q. You didn't offer him anything?

A. No, sir.

Q. Did you promise him anything?

A. No, sir.

Q. Did he sign for a copy of the confession?

A. Yes, sir.

HARLEY ALLEN
W. B. ANDERSON

549 Q. Did you give it to him?

A. Yes, sir.

Q. Were they read over and explained to him before he signed them?

A. Yes, sir.

Q. Do you recall, Mr. Allen, who read the statements to him?

A. Mr. Anderson.

Q. Who else was present with you when he made the confession?

550 A. Sheriff Rogers was there.

Q. Do you recall who else? Who typed the statement up?

A. Mr. Anderson.

Q. Were they present when he signed the confession?

A. Yes, sir.

Mr. Britt: Come down.

Mr. W. B. ANDERSON, sworn to tell the truth, the 551 whole truth and nothing but the truth.

Direct Examination

By Mr. Gasque:

Q. Mr. Anderson, what position, if any, do you hold with Dillon County?

A. I am clerk for the Sheriff's Office.

Q. Are you a deputy sheriff?

A. I am.

Q. How long have you held that position?

A. For about a year and a half.

552 Q. Were you present when Quincy Bullock made a confession?

A. I was.

W. B. ANDERSON.

Q. Did you type it up?

A. I did.

Q. I will hand you here two confessions—they are State's Exhibits No. 9 and No. 10—and ask you if those are the confessions that you typed?

A. (Looking at exhibits) Yes, sir.

Q. Was Quincy Bullock present?

A. He was.

Q. Were the statements read back to him before he signed them?

A. They were.

Q. Were they explained to him?

A. They were.

Q. Did you offer him anything to sign them?

A. I didn't.

Q. Did you promise him anything?

A. I didn't.

Q. Did he sign them after they were read back to him?

A. He did.

Q. Did he sign for a copy of the confession?

A. Yes, sir, he did.

Q. Did you give him a copy of the confession?

A. I did.

Cross Examination

By Mr. Hawkins:

Q. Mr. Anderson, you are a deputy sheriff, are you not?

A. Yes, sir.

Q. For Dillon County?

A. Yes, sir.

Q. Did you actually draw up the document that you refer to as a confession yourself?

A. I did.

W. B. ANDERSON

Q. And who told you what to put in that?

A. Quincy.

Q. Are these statements, do they contain his exact language?

A. Up to a certain point, they—it does.

Q. And it contains part of his language and part of whose else?

A. His language that was intelligible.

Q. And you supplied yourself the balance?

No, after he would make a statement concerning a particular fact, I would go over it with him, and ask him, "Is this what you mean?" And he would say, "Yes." And I would type it.

Q. Then your put down what you stated to him?

A. I put down what I had told him—I mean, I put down what I asked him was correct.

Q. Did you write it out in longhand first before you typed it?

A. I did not because he can't read.

Q. He can't read?

A. No, sir.

The Court: Did you ask him did he write it down in longhand?

Mr. Hawkins: I asked him did he write it down in longhand first?

A. I did not.

Q. The first document that you made was this typewritten document? That you have there?

A. It was not the first. We made several. I would say at least ten or fifteen documents before we got—

Q. (Interrupting) Do you have all those documents with you?

W. B. ANDERSON

A. No, sir, because after reading them and explaining it to him, he found something wrong with it and we would tear it up and start again.

Q. So this is one that he said was all right?

A. Yes, sir, it is.

Q. Didn't he say with this one like he said with all the rest, "If you say so, that must be right?"

A. Well, as I said before, Mr. Hawkins, he would go over a certain section. After he completed—completed telling me this certain phase of the crime, I would go over it with him and I would say, "Is that what you mean to say?" And he would say, "Yes." And then I would type that up and I would stop and we would go back questioning.

Q. And you would add to it or subtract from it or put it in different words.

A. I neither added to it nor subtracted from it. I used some of my own words because some of the words he was using, I did not know how to spell or did not know the meaning of.

Q. Do you know whether or not he knew the meaning of the words that you used?

A. That is the reason I asked him over again is this what he meant before I typed it.

Q. Well, do you know whether or not he understood you?

A. He said he did.

Q. How many copies did you make of the long confession which is Exhibit No. 9?

A. Is that the reconstruction?

Q. I don't know.

A. (Looks at Exhibit No. 9) I made three copies.

Q. You made that and two others or that and three others?

W. B. Anderson

A. This and two others.

865 Q. This and two others. And what do you mean by "reconstruction?"

A. Well, there is two confessions here. One, the actual confession of the crime. The other, the reconstruction of the crime itself.

Q. Who—you reconstructed it based on what he told you?

A. No, sir, it was reconstructed with Mr. Allen and Mr. Quick and Sheriff Rogers.

Q. Well, with reference to Exhibit No. 9, did that 866 contain when you typed it everything that it contained when you handed it over to Quiney to sign?

A. It did.

Q. Were there any changes or additions made on it after he signed it?

A. I believe on the confession and not the reconstruction—

Q. (Interrupting) I'm talking about No. 9 now, the exhibit that you hold in your hand.

A. (Looking at Exhibit No. 9) There was nothing 867 added to this.

Q. There was nothing whatsoever added to that statement. That is exactly like it was when Quiney signed it?

A. That is correct.

Q. And you are the one who actually typed it?

A. I am.

Q. Now on the next to the last line, Mr. Anderson, where I am pointing my finger, what was that when you originally typed it?

A. (Examines exhibit) It looks as if it were a period.

868 Q. And when you put a period there, you mean to stop, don't you?

W. B. Anderson

A. That's correct.

Q. Didn't you add to that, Mr. Anderson, "and I have received a copy of the statement?"

A. I didn't add, Mr. Hawkins. I made a correction.

Q. You corrected what?

A. I corrected the period to a comma.

Q. And then did what?

A. And finished the last sentence. Not the last sentence, but finished the sentence.

Q. Finished the sentence. And you did that at the time you typed it originally?

A. I believe I did.

Q. And you did not remove it from the machine?

A. It looks as if it could be changed by ink.

Q. Could be changed by ink.

A. Yes, sir, that is what it looks like.

Q. Well, was it changed by ink?

A. I don't recall now.

Q. Well, are you sure that you did not remove that statement from the machine or after you removed that statement from the machine, that you made any changes or corrections on it?

A. It is possible that I could have made the loop to the period making it a comma.

Q. Put it back in the machine and made the comma a period the the period a comma?

A. Made the period a comma; but I don't believe it was put back in the machine.

Q. You don't think it was put back in the machine?

A. No, sir, it doesn't look so.

Q. But if you did put it back in there, you certainly didn't add to it, "and I have received a copy of the statement?"

A. No, sir.

W. B. ANDERSON

Q. You definitely didn't do that? Is that right?

A. I don't believe anything was added after it was taken from the machine.

Q. Was it or was it not? I am asking you. You are the one who typed it.

A. No, sir.

Q. And you say you made two copies of this statement?

A. Two copies and one original.

Q. I show you this that I hold in my hand and ask you if that is a copy of it?

A. (Looking at paper) Yes, sir.

Q. I will ask you if on that copy that that last phrase that I have just read to you, "and I have received a copy of the statement," isn't set up higher than the line preceding it on which it is typed?

A. It appears to be.

Q. And does it not extend further to the left on the left margin?

A. It does.

Q. Now, I want you to tell the jury how that happened.

A. As I said before, I don't recall whether I corrected the period to a comma in the machine or out of the machine. It looks here as if it was corrected out of the machine. If I corrected it with ink, I had to remove the copies from the machine. There is a possibility that in putting it back, the carbon copies would be a little off center from the original copy.

Q. And it is a possibility it was put in there two or three days later too, isn't it, Mr. Anderson?

A. No, sir, it isn't.

Mr. Hawkins. I would ask that this be marked for identification.

W. B. ANDERSON

(Copy of statement marked Defendants Exhibit "A" for identification.) 577

Q. Mr. Anderson, was this copy—or I will ask you if the original and the two copies that you state that you prepared were they all signed at the same time by Quincy Bullock?

A. (Thinking) I believe so, sir.

Q. And were they all witnessed at the same time by the officers whose names are on there?

A. I believe so, sir.

Q. You were present, Mr. Anderson, when all these were signed? 578

A. Yes, sir.

Q. Well, aren't you sure?

A. (Thinking)

Q. Don't you know positively about what took place?

A. There was two statements. One of those statements was witnessed by Sheriff Rogers, Harley Allen and myself. The other statement was witnessed by Sheriff Rogers, Arthur Quick and Harley Allen.

Q. Were they both taken at the same time and reduced to writing? 579

A. They were both taken within an hour of each other.

Q. And both reduced to writing when? At the same time?

A. The same day. The same morning.

Q. In the same place? Down at the jail?

A. The same place.

Q. I show you this one that you state is an alleged confession. I will ask you how many copies you made of Exhibit No. 10? 580

A. (Examines exhibit) I made three copies.

W. B. ANDERSON

Q. You made an original and two copies?

A. Two copies.

Q. Now, I will ask you, Mr. Anderson, if anything else was added to that statement after you typed it up?

A. (Examines exhibit) Mr. Hawkins, I don't recall anything being added to it.

Q. Was anything added to it after Quincy Bullock put his signature on there? If he did.

A. No, sir, once he signed these statements, I took the machine and brought it back to the sheriff's office.

Q. And nothing was added to it after that?

A. Nothing that I know of.

Q. Now, I will show you on that last line, the last sentence, if there isn't a definite blank there larger than normal separating sentences and if it isn't separated somewhat as it extends on down into the next line in a wider space between it and the next line than the balance of the rest of the statement?

A. Well, here again, we have the same situation as we had in the other statement. The statement itself was pulled from the machine; and after it was read over, it was decided to include this sentence, "I have received a copy of this statement." It was put back in the machine and this statement was included.

Q. So you do recall all that now? With reference to the first one you testified it remained in the machine until it was fully written and then it was taken out and that thereafter no changes were made or additions made to the statement. Now you testify with respect to that one and going back and including the other one stating that they both were removed from the machine and that later they were put back in and that sentence added to each of them.

W. B. Anderson

A. As I recall, you asked me the question, "Was anything added to this statement after it was taken?"

Q. Yes, sir.

A. Is that what you asked me?

Q. I asked you that, and then I asked you if there was anything added to it after you finished typing it up after it was signed by Quincy.

A. After I finished typing it up and it was signed by Quincy, absolutely nothing was added.

Q. Isn't it unusual, Mr. Anderson, that you had to add that one little thing to both of those confessions when you state that one was typed up an hour before the other and signed by Quincy Bullock and then the last one, the longer one, the reconstruction one, was typed up and signed by him an hour later?

A. Mr. Hawkins, I see nothing unusual about it. After reading it over, we wanted to make sure that we had everything possible in the statement, we discovered that we had left out that one sentence.

Q. Didn't you discover that, Mr. Anderson, after Quincy Bullock had signed it and you knew that to get it in evidence that you had to put that sentence in there or else it would be refused to be admitted by this Court?

A. I told you a minute ago that after he signed that, nothing was added to the statement.

Q. Isn't it unusual that on both those statements, the same thing has been added and one of them was written an hour after the other one?

A. I did not say one was written an hour after the other. I said in the period of an hour both were written at the same morning, the same day.

W. B. Anderson

Q. The first one—the first statement which is Exhibit No. 10 that is what you refer to as the alleged confession?

The Court: Are you talking about a copy or an original?

Mr. Hawkins: I'm talking about the original, your Honor.

The Court: Did you offer this—I just wondered; you offered some paper for identification?

Mr. Hawkins: I did, your Honor. That was a copy.

The Court: Is that the paper about which you are talking?

Mr. Hawkins: No, sir, I am talking to him now about these two (counsel is referring to State's Exhibits No. 9 and No. 10), but I have been talking to him about this copy.

The Court: You are examining him about a paper which you have not offered in evidence?

Mr. Hawkins: No, sir, your Honor, I am examining him about an original; but I am using a copy which he says was typed up at the same time as the original.

The Court: Go ahead.

Q. Now, Mr. Anderson, you state that with reference to Exhibit No. 10 which is the short statement, you refer to that as the confession, I believe? And you refer to Exhibit No. 9, the long one, as the reconstruction? Isn't that it?

A. I don't recall about the long or the short one. What I had in mind that we actually had two statements; one was the confession of the crime; the other was the reconstruction of the crime.

Q. Well, which one of those is which?

A. (Looking at exhibits) Number 10 is the reconstruction.

W. B. ANDERSON

Q. Number 10 is the short one?

A. That's correct.

Q. Now Number 9 then is what you call the confession?

A. Well, they are both confessions.

Q. Well, you have been calling them—I didn't call them that—but I am trying to use the words that you refer to them as for your own information. Now, Number 9 was the one that was taken first. Is that right?

A. Number 9 was taken first.

Q. Yes, sir. And you state that that was taken about an hour before the other one?

A. Approximately.

Q. It was typed up and signed and witnessed and that was the confession that you had. Isn't that right, sir?

A. Yes.

Q. And then about an hour later, you drew up the one which you call the reconstruction which is Exhibit No. 10?

A. That's right.

Q. And then Quincy signed that one you state in the presence of the witnesses that are named thereon?

A. Yes, sir.

Q. That is what you state. So there was an hour between the taking and the signing of No. 9 and the taking and signing of No. 10?

A. I don't recall the time. I said, "within an hour."

Q. Well, there was some time—

A. (Interrupting) There was some time.

Q. (Continues) Elapsing between the taking and signing of one and the taking and signing of the other?

A. Yes, sir.

W. R. ANDERSON

597 Q. So he already signed Number 9 before you gave him Number 10 to sign? Is that right?

A. (Looking at the two exhibits.)

Q. That's right. Isn't it?

A. I believe so, sir.

Q. But you went and put, "I have received a copy of this" confession or statement on both of them? You said you added that to each one?

Yes, sir.

Q. Well, why did you have to add it to the second one if you had already gone all the way back and added
598 it to the first one? Why didn't you type it out right to start with if you had already gone back and added that sentence in those words to the first one?

A. (Thinking) I just don't know why.

Mr. Hawkins: That's all.

Re-direct Examination

By Mr. Gasque:

Q. Mr. Anderson, regardless of any corrections or additions made on either of those confessions identified
599 as State's Exhibit No. 9 and No. 10, after they were read to Quincy Bullock and explained to him and he agreed to them and signed them, was there any corrections made on them whatsoever?

A. No, sir.

Mr. Gasque: That's all.

Sol. Kilgo: If the Court please, the State rests.

Objection By Mr. Hawkins: If the Court please, we would like to note our objection to both Exhibit No. 9 and Exhibit No. 10; we have already objected to them,
600 but I would like to state that our objection is based on the fact that they are not in compliance with Section 1-64 of the 1957 Code Supplement and also Section—

W. B. Anderson

The Court: What is that section?

Mr. Hawkins: That section states that the person receiving or taking the written statement shall give to the person making a statement a copy thereof and shall obtain from the person making a statement a signed receipt for the copy so delivered.

And Section 26-7-1 of the same supplement states that you have got to give the person making the statement an exact copy of that which he is supposed to have signed.

And Section 26-7-2 of the same supplement states that no such statement shall be admissible in evidence unless the provisions of those two previously quoted sections have been complied with.

So we object to them on both grounds.

The Court: The objection is overruled. Proceed with the defense.

Sol. Kilgo: Your Honor, we have in court Dr. Wyman of the State Hospital. We have not called him as a witness, and we will be glad to have him present tomorrow in case the defendant wishes to call him as a witness. (Solicitor confers with defense counsel.)

They state that they want us to have him here, if the Court please.

The Court: Dr. Wyman, you are under order of the court to be here.

Sol. Kilgo: If the Court please, we also have the officers from the South Carolina State Law Enforcement Division who have testified today; we would like to excuse them unless the defendant wishes them here tomorrow.

Mr. Britt: We would like to have them present.

The Court: They will be present.

W. B. ANDERSON

Mr. Foreman and gentlemen of the jury, you will
905 go to your room now and you will be kept together tonight. So, gentlemen, I am excusing you now until tomorrow morning at nine o'clock. I do so with the admonition, of course, you will not discuss the case with anyone or allow anyone to discuss it with you. And you will not—I don't know whether any newspaper will have anything in it or not in any of its editions about the trial of the case—but, of course, Mr. Foreman, you would see that none of you would read anything about it because you wouldn't want to hear
906 what somebody else may say, you see. That is the only reason.

I hope you will be comfortable tonight. If you want to go to the moving pictures—is there any objection?

Sol. Kilgo: None for the State, your Honor.

Mr. Hawkins: None whatsoever, your Honor.

The Court: If one goes, you will all have to go, though. Do you understand that?

(Jury retires.)

(Mr. Charles Barfield and Mr. Shep Brogdon ques-
907 tioned by the Court as to relationship or interest in the case. They were approved by counsel for the State and counsel for the defense and sworn to keep the jury.)

The Court: Gentlemen, it is usually advisable that the sheriff keep in touch with a jury. I generally like to get permission of counsel. Should it be necessary tonight, would there be any objection to him helping in case of an emergency?

Sol. Kilgo: None whatsoever.

Mr. Britt: No objection.

908 (Recess overnight.)

Saturday, October 15, 1958, 9 o'clock a. m.

W. B. ANDERSON

Mr. Hawkins: May it please the Court, we have asked the solicitor if he would allow us to recall Deputy Sheriff W. B. Anderson for just one question.

Mr. W. B. ANDERSON, recalled.

Cross Examination

By Mr. Hawkins:

Q. Mr. Anderson, I show you this and ask you if it isn't a carbon copy of State's Exhibit No. 10?

A. (Looks at paper) It is, sir.

Exhibit Offered By Mr. Hawkins: We would like to have this marked for identification.

(Carbon copy statement of Quincy Bullock marked Defendant's Exhibit No. "B" for identification.)

Q. Mr. Anderson, when they were questioning Quincy over in the old jail, were you present there?

A. I was only present for about ten minutes once.

Q. You were there one time?

A. Yes, sir.

Q. For about ten minutes. At the time that you were there, was the defendant Quincy Bullock hit or struck or abused in any way whatsoever?

A. At the time I was at the jail, I was standing on the outside relaying a message to the sheriff. Quincy Bullock was in the old jail. I did not see him.

Q. So when you went to the old jail for a period of ten minutes, you did not see Quincy Bullock?

A. I did not.

Mr. Hawkins: That's all.

Sol. Kilgo: Come down.

GARY GIBBS

MR. GARY GIBBS, sworn to tell the truth, the whole truth and nothing but the truth.

Direct Examination

By Mr. Hawkins:

Q. Mr. Gibbs, where do you reside, sir?

A. Sir?

Q. Where do you live?

A. On 301 highway nearabout the Church of God.

Q. And how long have you lived in Dillon County?

A. All my life.

Q. And do you know the defendant, Quincy Bullock?

A. I have known him for several years.

Q. And during the month of August of this year, did you have occasion to see him or go anywhere with him?

A. The night of that ukshap or whatever you might call it, I was at Gaddy's Store and he asked me would I take him to a colored woman's house right before you get to the overhead bridge.

Q. Now where is Garry's Store?

A. It's on 301 highway below the Church of God on the left.

Q. And that is in the town of Dillon?

A. Yes, sir.

Q. And about what time of the evening or day was that?

A. It was around eleven o'clock at night.

Q. And were you inside the store or outside when you came in contact with him?

A. Inside the store.

Q. And you stated he knew you. Did he come up to you and ask you if you would take him to this place?

A. Yes, sir, he asked me what would I charge to take him out there. I says, "I don't have a taxi li-

cense," I says, "If you will just put some gas in the car, I'll take you out there." I said I wouldn't stay but just a few minutes. 617

Q. About what time was it when you left Gaddy's Store to go to the place out near Latta?

A. It was probably about ten or fifteen after eleven.

Q. About how long did it take you to get there?

A. Probably six or seven minutes, something like that; it's not far out there.

Q. Can you tell us about where the place is located that you took him?

A. Sir? 618

Q. Can you tell us where the house is located that you took him to?

A. It's just a short distance from Webb's Motel on the left in the curve of the road before you get to Poston's Service Station it would be on the right.

Q. Before you get to the overhead bridge as you go toward Latta?

A. Yes, sir.

Q. And when you got there, did you stop and go in with him or did you let him out? 619

A. I put him out and I went on down to Poston's Station and I told him I would wait about fifteen or twenty minutes on him if he wanted to ride back to Dillon with me.

Q. So in fifteen or twenty minutes, what did you do?

A. I pulled up at the house and blowed the horn, and he come out and stood in the door a few minutes talking to some colored woman in the house. I could see by the light that she wasn't a white woman; I know it was a colored woman. And he come on out and got in the car and we drove back to Jack Gaddy's store and parked at the back of the store. 620

GARY GIBBS

621 Q. Now that is the same store that you left from when you started?

A. The same place I picked him up.

Q. Now, Mr. Gibbs, about what time was it when you got back to Gaddy's Store?

A. It was approximately fifteen minutes to twelve.

Q. After you got back, did both of you stay around there for any length of time?

A. Just a few minutes. He says, "Mr. Gibbs," says, "I will buy you a beer if you'll drink it," and he went in and bought two Schlitz and we sat there in the car
622 and drank it and he says—

Objection By Sol. Kilgo; We, of course, object to any conversation.

Q. Don't say what he said to you. Just say what he did.

A. No, sir.

Q. Did you stay there and drink the beer?

A. That's all I can tell if he had anything else or not.

Q. And about what time then did you go home?

A. I got home at five minutes to twelve.

623 Q. How far do you live from Mr. Gaddy's store?

A. About a block and a half.

Q. And you were riding?

A. Yes, sir, I had my car.

Q. And how did Quincy Bullock go home?

A. He got out of the car and walked right straight—my car was headed next his house—and he walked right straight next his house and the last time I seen him there is a street light right back of the Church of God and I didn't see him no more and I cranked up and went on to my house.

624 Q. Did he live further away from Mr. Gaddy's store than you live?

GARY GIBBS

A. Yes, sir.

625 Q. About how far do you live from Mr. Gaddy's store?

A. I imagine a couple of blocks.

Q. In what direction is his home from Mr. Gaddy's store?

A. North, on Fourth Avenue.

Q. Is that back towards Main Street?

A. No, sir, going next—it's on the same street you go next going to the Chevrolet place.

626 Q. Yes, sir. Well, that is Main Street the Chevrolet place is on. But when you go in the direction of his home?

A. Yes, sir.

Q. You go in the direction of Main Street?

A. Yes, sir.

Q. Is there anything else you know about that, Mr. Gibbs?

A. No, sir, that is all.

Q. Where is Polson's place, Mr. Gibbs?

627 A. Sir?

Q. Where is Polson's Store? You stated you went down there and turned around at Polson's Filling Station.

A. I parked in there and went in and talked to him just a few minutes and turned around at Polson's Store.

Q. Where is that located at, sir?

A. Right at the overhead bridge crossing the railroad going next Latta.

Q. It is on this side or the other side of Latta?

628 A. This side. On your right.

Mr. Hawkins: You may examine him.

GARY GIBBS

Cross Examination

By Sol. Kilgo:

Q. Mr. Gibbs, was Quincy Bullock—did you and he drink any beer together before you went.

A. No, sir.

Q. Down there? And as I understand it, between quarter of twelve and five minutes to twelve on this Saturday night, you and he drank a can of beer together at Gaddy's Store?

A. That is when he left me.

Q. And how far was he from Gaddy's Store when you last saw him?

A. About a half a block from Gaddy's Store.

Q. Half a block. Now, Gaddy's Store is located where?

A. Right across from the Sing gas station on 301 highway.

Q. On 301 highway?

A. Going south.

Q. How far is 301 highway from the Old Latta Highway? Does it run parallel with it?

A. It's probably a quarter of a mile. In other words, about three blocks across.

Q. In other words, the two roads run parallel?

A. Yes, sir.

Q. And about a quarter of a mile apart?

A. Yes, sir, it may not be that much; I never have checked it.

Q. A quarter of a mile or less apart, running parallel?

A. Two roads. Both run the same way.

Q. Now which side of Dillon is Gaddy's Store on?

A. The one where I picked him up at?

Q. The one where you left him.

GARY GIBBS

A. On this (indicating) side of Dillon on 301.

Q. On the south side?

A. Going south.

Q. And you picked him up at the same store you left him at?

A. Yes, sir.

Q. And which side of Dillon is Mount Holly Cemetery on?

A. It would be on the west side on the Old Latta Highway.

Q. Wouldn't that be on the south side?

A. Well, it is west from Gaddy's Store; it would be on the Old Highway going south on the Old Highway.

Q. Well, the Gaddy Store is on the side of Dillon towards Florence?

A. Sir?

Q. The Gaddy Store is on the side of Dillon toward Florence?

A. On 301.

Q. On 301 toward Florence?

A. Yes, on Highway 301 headed next Florence. Yes, sir.

Q. And how far out of town is it?

A. Well, it's right at the City Limits.

Q. Right at the City Limits. And a quarter of a mile or less to the west is the Old Latta Highway?

A. That's right.

Q. In other words, 301 goes to Latta?

A. Run parallel.

Q. And they are less than a quarter of a mile apart?

A. That's right.

Q. And the Gaddy Store is on the edge of Dillon on the south?

A. That's right; on 301.

GARY GIBBS

Q. And Mount Holly Cemetery is on—
637 A. (Interrupting) The Old Latta Highway.

Q. And how far from town is it?

A. Well, it's—I don't know exactly where the City Limits is over there.

Q. It is shortly out of the City Limits?

A. I would say a mile; or a half a mile anyway.

Q. And where does the Mount Holly Cemetery set with reference to the highways that are less than a quarter of a mile apart?

638 A. Well, it sets—you mean according to Gaddy's Store on the other side?

Q. No, according to the two highways?

A. Well, it sets way down on the edge of the swamp; it would be on your left on the Old Latta Highway.

Q. That's right. It's between the two highways?

A. That's right.

Q. In other words, the two highways are a quarter of a mile or less apart.

A. That's right.

639 Q. And Mount Holly Cemetery sits between the two highways?

A. That's right.

Q. And Gaddy's Store is on 301 on the same side of Dillon?

A. The cemetery sets right next the mill, the old mill down there.

Q. So you last saw him on this night at about five minutes to twelve?

A. Yes, sir, it was five minutes to twelve when I got in at my home.

640 Q. He had just drunk a can of beer?

A. That's right.

GARY GIBBS
MATTIE BULLOCK

Q. He had just returned from seeing a woman? 641
A. That's right.
Q. And he was less than a quarter of a mile from Mount Holly Cemetery?
A. That's right.

Re-direct Examination

By Mr. Hawkins:
Q. When you last saw him, was he going away from or toward Mount Holly Cemetery?
A. He was going directly to his home when I last saw him. 642
Q. Is that away—in the same direction or in the opposite direction?
A. No, sir, he was headed back next Main Street going north; Fourth Avenue.
Q. In the direction of his home?
A. Yes, sir.
Q. And which direction is Mount Holly Cemetery?
A. It would be back this way from his home.
Q. That would be south?
A. West. Southwest what you might say. 643
Mr. Hawkins: That's all.
Sol. Kilgo: No further questions.

MATTIE BULLOCK, sworn to tell the truth, the whole truth and nothing but the truth.

Direct Examination

By Mr. Hawkins:
Q. Mattie, are you Quincy Bullock's wife?
A. Yes, sir.
Q. How long have you been married? 644
A. We been married about six years, something like that.

MATTIE BULLOCK

645 Q. And where have you lived since you have been married?

A. Right where I am living at now. We did move one year to Marion on Mr. Charlie Stackhouse's place and farmed one year.

Q. Mattie, on this night we have been talking about, about what time did you leave home?

A. To go down to my sister's?

Q. Yes.

A. Well, it was—I reckon it might have been around about seven—about six-thirty I went—

646 Q. (Interrupting) And had Quincy come home from work then or not?

A. Yes, sir, he came in and he told me, he said, "I'm going down here—

Objection By Sol Kilgo: Just a minute.

Q. Don't say what he told you. But as a result of what he told you, what did you do?

A. Well, I went on to my sister's and he said he would be on later.

The Court: You can't say what he told you.

647 Q. Now where did your sister live?

A. Sir?

Q. Where did your sister live?

A. Down here in Jacksonville.

Q. And where did you live at that time?

A. Up here on Fourth Avenue.

Q. And why were you going over to your sister's?

A. Well, her daughter was sick and they had called me and told me about Lou being sick and so I told him, "Let's go." He say, well, after he go and get his cigarettes, he would go. So I—

648 Objection By Sol. Kilgo: Wait a minute.

The Court: Just a minute.

MATTIE BULLOCK

Mr. Hawkins: Don't say anything that Quincy told you. 649

A. All right.

Q. Did you go over to your sister's then?

A. Yes, sir.

Q. About what time did you get there?

A. I reckon about—I'm going to tell you I don't exactly know, but I went right straight on. It might have been a little bit past seven o'clock, something like that; I'm not quite sure but it was somewhere around like that.

650

Q. And how long did you stay over there?

A. Well, I stayed over there a little better than a hour I reckon.

Q. And then where did you go?

A. I came on back home.

Q. Did or not Quincy come over to your own knowledge while you were there?

A. No, sir. He had been there, but he wasn't there while I was there.

Q. And when you came back there, did you receive any information about his being there? 651

A. Mr. Cicero Crawford told me—

Q. (Interrupting) Well, don't say what he told you. But did you get the information?

A. Yes, sir.

Q. And after getting that information, did you go home?

A. I went on back down to my sister's.

Q. About what time was that?

A. That was around—I knew that was around about eleven o'clock, something like that. 652

Q. Now where did you go after that?

MATTIE BULLOCK

A. I went back down to my sister's and spent the night.

Q. And did Quincy come to your sister's house after you got back the second time?

A. No, sir.

Q. When did you go back to your own house?

A. I went back that morning.

Q. About what time did you get there?

A. Well, it was kind of early because Quincy generally go to work about six-thirty. I got there before time for him to go to work. But he wasn't there, but I got there at that time. But he came in a little later after that. About a half hour later.

Q. Let's go back just a minute now. When you got back home at eleven o'clock, that night before—

A. Yes, sir.

Q. Was Quincy at home?

A. No, sir.

Q. And after you found that he wasn't at home, you stated that you went back to your sister's and spent the night?

A. Yes, sir.

Q. Now you state you went back home the next morning and arrived there about what time?

A. Well, it was somewhere—it was about—it was something past five because I wanted to get there before he went to work to see had he came in.

Q. Was Quincy there when you arrived?

A. No, sir.

Q. When did he come in?

A. He came in about a half hour later I reckon. I didn't look at the clock, but it was somewhere like that.

Q. How did he come if you know?

A. He came in a cab. Mr.—Mr. Bailey brought him.

MATTIE BULLOCK

Q. When he came in, how was he dressed?

A. He had on the same old things he had when he left. Pants and that old blue shirt—and pants.

Q. They were the same clothes you saw him with the last time you saw him?

A. Yes, sir.

Q. And what was their condition with respect to dampness or not?

A. Well, I didn't see anything wrong with them only down across the feet was a little damp. I thought he probably walked in the dew or water or something because he usually come in like that sometimes. I didn't think nothing of it.

Q. What was his condition when he came in? What was his appearance and manner?

A. Well, he didn't say nothing only he says—

Q. (Interrupting) Don't say what he said. Just what did you observe about it?

A. Well, I didn't observe anything because I just thought probably he taken a drink and got out as usual; that's what I thought about.

Q. And what time did you go to work?

A. He just came in and changed his clothes right then waiting on the man, Mr. Bailey, took him on out to the job. So later, a little bit later, he came back. I say, "You didn't work?" He say, "Well, Mr. Dan—.

Q. (Interrupting) Don't say what anybody said.

A. Well, he said there was somebody working in his place that day, and he would go the next day to work.

Q. After that, Mattie, did any of the officers come to talk with you about anything?

A. Yes, sir. No, they didn't come to talk with me until they came that Thursday in the afternoon and Quincy was laying on the couch. I says, "What's the

matter?'' I didn't know. And they came in and they said they wanted to talk with him. And they took his shoes and looked at them and said they wanted to talk with him. And that is all I had knowed.

Q. Did they take him anywhere then?

A. They carried him on down to the jail. They said they was going to find out about a call, or something. They carried him on to jail, so they didn't bring him back until they come back Friday and arrest me.

Q. When they arrested you on Friday, about what time was it?

A. Well, it was right after I left your house up yonder, they went up there and got me. They arrested me then.

Q. You know about what time it was?

A. It was about twelve when I left Mrs. Hawkins' house, I think. It was something—they investigated and looked around—but I don't know exactly what time it was. It might have been going on one; I don't know.

Q. And where did they take you, Mattie?

A. They took me down to the jail.

Q. Well, when you got down there, how long did you stay?

A. Well, they locked me up and I stayed until I reckon it was late in the afternoon twixt—I don't know exactly what time it was, but it was kind of later over in the afternoon.

Q. So that was Friday afternoon that you are talking about?

A. Yes, sir.

Q. When you were there at the jail on Friday afternoon, did you see your husband, Quincy Bullock?

A. Yes, sir. They let—

Q. (Interrupting) And where did you see him?

MATTIE BULL

A. Right out there in that little bit of hall place from his room.

Q. And could you see all of him?

A. Yes, sir.

Q. What did you observe about his condition?

A. Well, he couldn't walk; he couldn't half walk when they brought him to the—there was a great big knot or something swole up on his face that big about to close his eye. But I don't know how come it up there. I says, "What's the matter with you? You sick?" He wouldn't ever tell me.

Q. How long were you in his presence? How long were you with him down there?

A. Well, I don't exactly know, but they brought me back when they came back to finish investigating; after they looked for something, they brought me back to the house.

Q. About what time did you get back home?

A. I don't know whether it was four or five o'clock because I don't have no time. But it was sometime kind of late in the afternoon.

Q. Late in the afternoon?

A. Yes, sir.

Q. Did you see Quincy any more after that?

A. No, sir. After they carried him off that afternoon, I didn't see him any more.

Q. Was there anything wrong with Quincy's clothes when he came in on that Sunday morning?

A. Well, I tell you, I didn't see a thing wrong; but just down across his feets it was a little bit wet across the bottom of his pants, and I thought maybe he just been plundering around and got in water half-drunk as usual. Now that is everything I seen on them.

Q. Mattie, when did you wash those clothes?

MATTIE BULLOCK

669 A. I washed them on Thursday evening because I told the law they was hanging on the line.

Q. Did you take them out and show them these clothes?

A. Yes, sir, I went out and got the pants off the line. I didn't wash before Thursday. I washed Thursday evening, afternoon and they was on the line when they came.

Mr. Hawkins: You may examine her.

Cross Examination

By Sol. Kilgo:

670 Q. Mattie, you were—you spent that Saturday night with your sister?

A. Yes, sir.

Q. And Quincy was due to go to work that morning what time?

A. Yes, sir, they left there sometime be about a quarter to six, but I think they do go at five-thirty I believe.

Q. He usually goes to work about what time?

A. Sometimes be a quarter to six like that.

671 Q. Does he usually go by taxicab?

A. No, sir, where he work, they come after him.

Q. Come after him?

A. Yes, sir.

Q. About five-thirty or quarter to six?

A. Yes, sir.

Q. And you got home about what time?

A. I don't know, sir, but it was—I didn't look, but I knew it was something past five because I wanted to get there to see was he there to go to work.

672 Q. Were you going to fix breakfast for him before he went to work?

MATTIE BULLOCK

A. No, sir, he eat breakfast out there; but I just come on, you know, to see had he come in and see was he going to work.

Q. You were expecting him in?

A. Yes, sir, I thought maybe he would.

Q. You were expecting him in to go to work from your home and that is why you came home early?

A. Yes, sir.

Q. To see him before he went to work?

A. Yes, sir.

Q. And he wasn't there when you got there, was he?

A. No, sir.

Q. Had his bed been slept in?

A. Well, it didn't look like it had been slept in.

Q. And he came on in in a taxicab later on?

A. Yes, sir.

Q. And his trousers and the bottom of his trousers and shoes were wet you say?

A. Yes, sir, down across his feet was wet right across there of his pants, but it wasn't wet way up there across his legs.

Q. Did he change clothes while he was there that morning?

A. Yes, sir.

Q. Were you there when he changed clothes?

A. Yes, sir.

Q. Did he leave the clothes that he came in with, did he leave those there in the house?

A. He throwed them right in the dirty clothes basket —I have a dirty clothes basket—and he threw his clothes—

Q. (Interrupting) You saw him do that?

A. Yes, sir.

Q. And he put on other clothes?

677 A. Yes, sir.

Q. Did he take his pistol to work with him?

A. I didn't see it. I ain't seen the pistol when he came in. No, sir, I don't think because I didn't see it or I didn't see anything he had; I didn't see him with nothing.

Q. You knew he had a pistol?

A. Sir?

Q. You knew he had a pistol?

A. I knew he was to buy one he said, but I hadn't seen it.

678 Q. You just said you didn't see his pistol that morning?

A. No, sir.

Q. You don't know whether he had it or not?

A. No, sir, because I sure didn't see it; Lord knows I didn't.

Q. You know his pistol when you see it, don't you?

A. I don't know whether I would or no.

Q. Look at this and see if it isn't that .22 pistol of his (handing witness State's Exhibit No. 12).

679 A. I don't know.

Q. That looks like his pistol?

A. I tell you I can't tell you much about it. I won't tell a story about nothing.

Q. Well, I know you won't.

A. No, sir.

Q. That looks like his pistol?

A. That might be, but I can't say for sure.

Q. What is it about this that is different from his

680 pistol? Of course, I didn't put this in (puts pin in); you know this goes in here, this pin. This pin goes right on down—I can't get it in right now. Does that

look more like his pistol now if this pin were in like that?

A. I don't know, sir; it might be. I can't tell much about it to tell you the truth about it.

Q. Is there anything about this that looks different from his pistol?

A. I don't know, sir.

Q. You don't know whether that is his or not?

A. No, sir, I really don't.

Q. All right. Now, Mattie, of course, this has been put on here—you see, it's got a light handle there on it. You see that light handle? Does that look like it now?

A. I can't tell you; it might be. I ain't going to say it ain't; but I can't tell much about it. Probably it could be, you know; but I won't tell a story. It may be it.

Q. You don't know whether that is it or not?

A. No, sir.

Q. Was that sort of light there?

A. Sort of light colored.

Q. Is that sort of like his pistol? It is either his pistol or one sort of like his?

A. I reckon so.

Q. All right. I know you don't want to say anything that isn't so. Which side of his face was the knot on?

A. This side. (Indicating left side of her face.)

Q. And that was on Friday?

A. Yes, sir.

Q. And he couldn't walk?

A. He was just creeping I would say. I say, "What's the matter with you? You sick?" So he say, "I don't know," say, "I need to go to the doctor." I say, "What's wrong with you?" He never did tell me what was wrong with him. But he just could walk and this

MATTIE BULLOCK

685 side of his face was a great big knot and it was closing his eye. And I said, "Well, I have some alcohol here if you want it." So one of the laws say, "We have some down there." So he started to take it, but he didn't take it.

Q. All right. Now you went with them from the jail with Quincy when you went down to your house to look for a pistol?

A. Yes, sir.

Q. And who all went down there, Mattie?

A. Let me see. I don't know the laws so good. Mr.
686 Allen was one. Let me see (thinking)—

Q. What seat did you ride in?

A. I rode back there—they was two more laws. There was another law besides Mr. Allen, but I'm trying to think—

Q. (Interrupting) That's all right. There was two of them and you and Quincy?

A. Yes, sir.

Q. And did you ride in the back seat or the front seat?

687 A. Yes, sir.

Q. Which seat did you ride in?

A. I think I rid in the back seat.

Q. And did Quincy ride in the back seat, too?

A. Yes, sir.

Q. Did they drag him in the house when you went down there?

A. Well, he—they kind of wait on him; he couldn't walk. He had to take little steps. He couldn't walk. Mr. Allen kind of waited patient on him.

688 Q. What's that? I didn't hear you.

A. Mr. Allen kind of waited patient on him to go in, you know, when he went in. And so all his face was

swole. This side was the one had a great big knot looked like it was about to close his eye like that so I asked him what was the matter with him. He never did tell me what was the matter with him.

Q. Here is a picture taken in your house. Do you recognize where that is in your house?

A. Yes, sir.

Q. Were you there when they pulled that board out there?

A. Yes, sir. It was the same evening they brought us back. Yes, sir, that is over there by the window.

Q. That's right. And what did they find in there?

A. Well, they got the pistol.

Q. Got the pistol. What pistol?

A. They got one. I guess it was that; I didn't look at it good, but it might have been the same one; I'm not sure.

Q. Where was Quincy when they got the pistol?

A. He were in there. Mr. Allen; he were in there with Mr. Allen.

Q. Was Quincy sitting down in the rocking chair?

A. No, sir, Quincy came in and went to looking 'round a time or two; so he and Mr. Allen, when he found the pistol, the pistol was in the back room where Mr. Allen was when they found it.

Q. He was standing up back there?

A. Yes, sir.

Q. Mr. Allen wasn't holding him?

A. No, sir.

Q. He was standing by himself all right?

A. Yes, sir.

Q. And you don't know whether that is this pistol or not?

MATTIE BULLOCK

693 A. Well, I tell you, when they got the pistol, I won't say it is not, when Mr. Allen found it, I didn't look at it so good; I knew he broke it, but I didn't see none of the balls out of it but I guess that may be the same one.

Q. Show me which side of his face the knot was on.

A. It was on this side over here.

Q. That is the left side.

A. Yes, sir.

Q. That was on Friday?

A. Yes, sir.

694 Q. Did you see him on Saturday and Sunday?

A. No, sir, I didn't see him no more after he left there that Friday.

Q. But on Friday he had a big knot on the left side?

A. Yes, sir.

Q. And his eye was nearly closed?

A. Yes, sir.

Q. Did it look like it was getting worse then?

A. It looked like—no, it just looked like it was swole up so it was about to close this eye. I didn't see anything wrong with that.

695 Q. Was it cut anywhere?

A. No, sir, it was just swole; looked like a little bruise on top of the place that was swole.

Q. About how big was the knot?

A. It was about something like that (indicating about the size of an egg) it was pushing up towards his eye.

Q. Something like that and the eye was nearly closed?

A. Yes, sir.

696 Q. What time was that on Friday? When was the last time you saw him Friday?

MATTIE BULLOCK

A. Well, that was when they come down there and they weren't through investigating about the pistol; that is the last time I saw him.

Q. What time? Afternoon? Night?

A. Yes, sir. It was kind of late in the afternoon.

Q. Late in the afternoon?

A. Yes, sir.

Q. Who found the pistol there?

A. Well, he and Mr. Allen was in there. I think Mr. Allen say he found where that board was loose. But I had come back in the other room. And I left him and Mr. Allen in that room.

Q. Did you hear Mr. Allen testify yesterday about seeing the board and pulling the board out?

A. Yes, sir.

Q. Is that the way it happened?

A. Yes, sir—I—Yes, sir.

Q. He is telling the truth. That is the way that happened?

A. Yes, sir.

Q. Now this picture here, Mattie, showing Quincy and Mr. Allen and Mr. Quick, are those the same clothes he had on the day you were down there? Look like the same clothes?

A. Yes, sir.

Sol. Kilgo: All right. Thank you. No further questions.

(Jury retires. Recess. Jury returns.)

QUINCY BULLOCK

Mr. QUINCY BULLOCK, sworn to tell the truth, the
701 whole truth and nothing but the truth.

Direct Examination

By Mr. Britt:

Q. Your name is Quincy Bullock?

A. Yes, sir.

Q. You are the one the State has charged with having murdered?

A. Yes, sir.

Q. (Continues) this lady?

A. Yes, sir.

702 Q. How old are you, Quincy?

A. Forty-six.

Q. Where do you live—or where did you live?

A. Fourth Avenue.

Q. Mattie Bullock, the woman that just testified, is your wife?

A. Yes, sir.

Q. How many blocks from Main Street is your home?

A. Sir?

703 Q. How many blocks from Main Street is your home?

A. (Counting on fingers) About two blocks.

Q. About two blocks?

A. Yes, sir.

Q. Now, Quincy—

A. (Interrupting) I'm sorry; three blocks because there is Hamilton and another street—Hampton and another street—let me see now; I don't want to be wrong. It's Hampton—

704 Q. (Interrupting) About three blocks to Main Street?

A. Yes, sir.

QUINCY BULLOCK

Q. And Fourth Avenue is the first street on the other side of 301 highway going east. Is that right? 705

A. Yes, sir.

Q. And where does your wife's sister, Elva Bethea, live?

A. Back over here on—on Cleveland Street.

Q. On Cleveland Street?

A. In Jackson—

Q. (Interrupting) Beyond the Seaboard Railroad in this direction?

A. Jacksonville.

Q. What they call Jacksonville? 706

A. Yes, sir.

Q. Now where did you work on August 2nd?

A. Pee Dee Que.

Q. Where?

A. The Pee Dee Que Restaurant.

Q. And where is that located?

A. Between here and Rowland on 301.

Q. Just beyond the Little Pee Dee River?

A. Yes, sir, on the right side.

Q. Did you work at the restaurant on Saturday, August 2nd? 770

A. (Thinking) August 2nd? Yes, sir.

Q. What time did you get off from work?

A. About—we get off at three-thirty in the afternoon. And then sometimes—it was according to what time the night hands got there. You see, we have to stay and work until the night hands got there. If they was there at three-thirty, we got off at three-thirty.

Q. And how did you come back to town from your job? 706

A. Mrs. Stubbs would bring us.

Q. What's that?

QUINCY BULLOCK

A. Mrs. Stubbs would bring us.

709 Q. Who is Mrs. Stubbs?

A. Mr. Stubbs' wife. Mr. Herbert Stubbs' wife.

Q. What is her position at the Pee Dee Que?

A. Sir?

Q. What job does she hold out at the Pee Dee Que?

A. Well—what kind of work do Mrs. Stubbs do out there?

Q. Yes.

A. Well, she be to the cash register and she carry food to the people.

710 Q. Is she a white lady?

A. Yes, sir.

Q. And she brought you home?

A. Yes, sir.

Q. And where did she put you out?

A. Right there at the corner of the street right there at my house.

Q. At the corner of the street next to your house?

A. Yes, sir, right ther at my house.

Q. Now this was about four o'clock in the afternoon

711 or something like that when you got home?

A. Yes, sir. It would be—it would be about four o'clock when we gets home; that is if we would leave at three-thirty. Sometimes it would be after three-thirty before we leave.

Q. What did you do after you got home?

A. Well, er, er—when? Every evening?

Q. That afternoon?

A. That afternoon?

Q. Yes.

A. That was the 22nd?

712 Q. Well, the afternoon of the night that this crime was supposed to have been committed; that afternoon.

QUINCY BULLOCK

A. I laid down in the front room out there in the long chair and went to sleep. 713

Q. How long did you stay there?

A. I stayed there all the evening until bedtime that night. You mean the time when the shooting was going on?

Q. I mean when you came home from work that Saturday afternoon? Before you went down to your wife's sister's.

A. Oh, I know what you are talking about now.

Q. All right. Tell us what you did?

A. Whenever Mrs. Stubbs put me off there on the corner, I had some hog feets and I come to the house from the block there; and I put my hog feets into the ice box. I laid down in the long chair and went to sleep. 714

Q. Was your wife at home then?

A. Yes, sir.

Q. How long did you stay there?

A. Er, er, I stayed there until night.

Q. And when you woke up, was your wife there?

A. Yes, sir.

Q. Then where did you—you say you woke up about night? 715

A. Yes, sir.

Q. Now what did you do after you woke up?

A. I got up and er, er, went down to the store, and er, er, got a dollar's worth of cigars.

Q. What store did you go to?

A. I don't know, sir, er, er, what the man's name; but it's down 301, er, er, right down there to the Seaboard Railroad. 716

Q. On this side of the Seaboard Railroad?

A. Yes, sir.

QUINCY BULLOCK

717 Q. Which side of the—which side of 301 is that store on?

A. On the right-hand side going towards Latta.

Q. Why did you go down there to get cigars?

A. Er, er, that man sold them cheap; seven cent apiece.

Q. That was cheaper than you could buy them anywhere else?

A. Yes, sir, most places they cost you eight cents.

Q. What kind of cigars were they?

A. King Edward.

718 Q. When you got your cigars, what did you do?

A. I come on back home.

Q. Was your wife there when you got back home?

A. No, sir.

Q. She wasn't there?

A. No, sir.

Q. What did you then do?

A. When I, er, first went at the cigars?

Q. Yes.

A. Well, she asked me was I going down to Lena's
719 and Elva's and I told her, no, not—

Q. Going where?

A. Down to Lena's and Elva's.

Q. Lena's and Elva's? That is your wife's sisters?

A. Sisters-in-law, yes, sir. I told her no, not right now; I told her I might when I come back. And so when I come back, she was done gone on.

Q. She had already gone?

A. Yes, sir.

Q. What did you do?

A. I put my cigars in the house, and I er, er, I called
720 'round there at er, er, Lena's, and Buddy answered the phone. I asked him was my wife there and he said, no;

QUINCY BULLOCK

but Buddy, they say, had just come in and so just in a 721
few minutes then later the phone rung and I answered the phone and it was Lena and Lena asked me did I call around there for my wife. I told her, yes. She says, "Well," er, er, "She been here, but she is gone."

Q. So what did you do then?

A. Well, er, er, er, I started, er, over there a'walking.

Q. About how far is it, Quincy, from your house over to your wife's sister's house?

A. Oh, it's a good ways; all the way across town.

Q. More than half a mile?

A. Yes, sir. It's a mile or a little better than a mile; 722
a little better than a mile.

Q. Well, now how did you when you left home to go over there, how did you go? What route did you take?

A. I left home walking. And er, er, come on out to 301, and er, er, I come on down there to Hamilton Street there and turned and come towards the Seaboard—I mean the Coast Line Railroad. And when I got down here to the corner where the colored folks cafe is Lynn Campbell come up with his cab.

Q. Who? 723

A. Lynn Campbell.

Q. Lynn Campbell?

A. Yes, sir, a colored boy come up with his cab and I asked him about taking me over in Jacksonville.

Q. Well, did you ride over to Jacksonville in Lynn Campbell's cab?

A. Yes, sir. From the colored folks cafe.

Q. On Hampton Street?

A. Yes, sir, it's on Hamilton Street, but it's over here next the Coast Line Railroad.

Q. Oh, it is down next the railroad on Hampton 724
Street?

QUINCY BULLOCK

A. Yes, sir.

725 Q. And what they used to call the Biltmore Hotel?

A. Yes, sir, that is it; dow nthere.

Q. And that is the brick building behind Belk's Store?

A. Yes, sir.

Q. Over next to the railroad. Is that right?

A. Yes, sir, that's right. That is where I got up with Lynn Campbell at; right there on that block down there.

Q. And he took you where?

726 A. Over to my wife's sister's, Elva. I got off at Elva's house. And Lena's house is right there 'side Elva's.

Q. Those houses are side by side?

A. Yes, sir.

Q. What did you do there? How long did you stay?

A. I stayed over there a hour or more.

Q. All right. Where did you go when you left there?

A. When I left there, I walked back to Dillon. I started walking back home. I walk all the way back

727 home and this here block right out here at the front of the place here. Well—

Q. (Interrupting) I don't know what you are talking about.

A. I'm talking about the street out there.

Q. Which street? The one right next to the court house?

A. Yes, sir.

Q. On the east side of the court house?

A. On the front of the court house out here.

728 Q. That is the street that runs north and south?

A. Yes, sir, that street going right up out yonder (pointing out front window).

QUINCY BULLOCK

Q. That is Main Street?

A. When I got to that block down there—

Q. (Interrupting) The first block?

A. At the red light (indicating post office corner) I turned and went this way (indicating south).

Q You turned to your right and went south?

A. Yes, sir. And er, er, there's a alley—there's a alley right back of the Health Department, you know, around there?

Q. Right back of the Dillon County Agriculture Building, there is an alley. Is that right?

A. Yes, sir. And so I saw somebody coming down through there had on light looking clothes; I figured—

Q. (Interrupting) Had on what?

A. Light looking clothes. I figured that was my madam, you know.

Q. Your who?

A. My madam.

Q. Your wife?

A. Yes, sir. I figured that was her, you know; and I er, er, went down through there to meet them and see who it was, see was it her. And when I met them it was Mr. Bowen.

Q. Mr. Dick Bowen?

A. Yes, sir. And I spoke to him and he spoke.

Q. Did he know you?

A. Yes, sir.

Q. You know him?

A. Yes, sir.

Q. About what time of night was that, Quincy?

A. That was getting pretty late because I looked down through town when I was along out there (indicating in front of court house) and all the cars was near about out of town.

QUINCY BULLOCK

Q. All right. When you passed him?

733 A. When I met him, I spoke to him. He spoke. And he asked me where was I coming from that time of night. I told him I was coming from my sister-in-law house; my wife's sister daughter was sick, Lou, and I had been down to see Lou. And he told me, he says, "Well," says, "You better go on in."

Q. Better what?

A. He er, er, told me, says, "You better go on to the house before you be in some trouble." I told him, "Yes, sir, I'm on my way now."

734 Q. Where did you go?

A. I went straight on home. I went on to the house.

Q. Yes.

A. And when I got to the house, I put my gun up, you see; I put my gun up. And er, er—

Q. Where did you put it?

A. Er, I kept it in the wall of the house.

Q. Was that a loose board on the wall?

A. Sir?

Q. How was that board fastened on the wall?

735 A. It was a board about that (indicating a little less than three feet) long, and the nail were loosened in this end, and er, er, this end here had a nail bent over it and you could turn that nail and the board would come off.

Q. Was that 'side your bed?

A. At the foot of the ed.

Q. At the foot of the bed. Why did you keep it in the wall?

A. Well, er, er, er, I just kept it in there. That is the

736 place I kept it.

Q. Did you have any special reason for keeping it there?

QUINCY BULLOCK

A. No, sir, I just kept it in there.

Q. Was your wife at home when you got there at that time?

A. No, sir.

Q. What did you then do?

A. Well, er, er, I wanted a Pepsi-Cola and all them little stores around home there was closed up and I went on down to that Lodge (large?) store.

Q. Whose store was that you went to?

A. Mr. Gaddy, I think his name is.

Q. Mr. Jack Gaddy's store?

A. Yes, sir.

Q. Was that on Highway 301?

A. Yes, sir.

Q. What did you do there?

A. I got me a er, er, Pepsi-Cola and stood there and drunk it and so I walked on out and when I walked on out, I run up on Mr. Gary.

Q. Mr. Gary Gibbs?

A. Yes, sir. And me and Mr. Gary got to talking and I asked Mr. Gary how about carrying me to a house between here and Latta; and er, er, he told me, says, er, er, "All right," says, "I'll carry you, but," says, "I ain't running no taxicab." I says, "Well, Mr. Gary, what you would charge?" He says, "Well," says "I don't know," he says, "What you give me?" I says, "Well, I don't know," I says, "It's your car." I says, "I don't know; it's your car." And he says, "Well, put me in a dollar's worth of gas," and I told him to pull up to the tank so he pulled up to the tank and I put him in a dollar's worth of gas.

Q. Do you know about what time of night this was?

A. Er, er, that was—I know, getting on up there towards eleven o'clock somewhere, I know.

QUINCY BULLOCK

Q. All right. Did Mr. Gibbs take you down to the
741 house between here and Batta?

A. Yes, sir.

Q. Did you go in the house?

A. Yes, sir.

Q. And did he later come back and pick you up?

A. Yes, sir.

Q. And where did he bring you to?

A. We, er, er, come on back to Mr. Gaddy's store and before we got to Mr. Gaddy's store, Mr. Gary said er, er, he would love to have a beer. And I told Mr. Gary,
743 I says, "Well, Mr. Gary," I said—he says he would like to have a beer but says everywhere is about closed up. That what he said. But said Mr. Lonnie Hamilton—says if this store down here is closed, says, I know where we can get it; we can get it to Mr. Lonnie Hamilton's. But when we got to that store there, that store wasn't closed. And Mr. Gary, er, er, pulled up behind that store and stopped and we sat there and talked; so I asked Mr. Gary what kind did he want and he told me some kind—I don't remember—and I went on in
745 and I kept it in my remembrance what kind he said and I called for the kind he said and I told the man he just as well give me one, too; I told him I wanted two of them.

Q. So you all drank the beer?

A. Yes, sir. I brought them on back out to the car and I had a can opener in my pocket and that's what we opened it with. And er, er, Mr. Gary said he believe he would save his until the next morning. I says, "Well, Mr. Gary—

Q. (Interrupting) Well, you all drank the beer
746 there?

A. Yes, sir, we drunk them right there.

QUINCY BULLOCK

Q. Then after you drank the beer, where did you then go? 715

A. Er, er, stood there and talk a little bit, and so I told him I had better come on to the house, and Mr. Gary says, "I'll take you to the house." I says, "Well," I says, "That's all right." I says, "You done carried me down yonder; I hate to bother you too much," I says, "It ain't fur to the house," I says, "I can walk it."

Q. Did you then walk on to the house?

A. That's right.

Q. What did you do after you got to the house?

A. I went to the rest room and stayed in the rest room. Sat in the rest room. 746

Q. Is your rest room on the inside of the house or on the outside of the house?

A. It is in the back yard.

Q. Why did you stay out there all night?

A. Well, because er, er, it was late and er, er, if any wife was there, why I didn't want to disturb her that time of night and then I was drinking that can of beer; and if she had smell it on me, I know she would raise sand because she didn't want me to drink it. 767

Q. Did you stay out there the rest of the night?

A. Yes; sir.

Q. When did you leave?

A. Er, er, soon that next morning, soon that next morning, I went to er, er, this here place over here on 38 where you buy hog head and all; beef—

Q. (Interrupting) You know what the name of that place is?

A. They call it the Trading Post I believe. 788

Q. You know who runs it?

A. No, sir, I don't.

QUINCY BULLOCK

749 Q. In what direction from your house is that located?

A. Like my house is here, that is way back over that way.

Q. Out on the Darlington Road. Is that right?

A. Yes, sir, I reckon so. On 38 Highway? I think it is 38.

Q. And how did you go, Quincy, from your house out to the Pee Dee Trading Post?

A. I walked.

750 Q. Well, which direction did you come out of your house?

A. I come out right on from the rest room. Well, er, er, when I woke up there in the rest room, you know, that morning, why I just thought, you know, I could go on get me a hog head, you know, and I just come on out by the Ford Body Shop there.

Q. Did you have to cross any weedy places?

A. Yes, sir, right between our garden and Rev. Coleman's house. That is the way we come out all the time pretty much to get to the store.

751 Q. How did you go then when you got to the Ford place? How did you travel from there?

A. I come on across towards Mr. Sheldon's market store, and er, er, Mr. Hoyt Jackson's store is right 'side of Mr. Sheldon and there's a path going out towards the Coast Line Railroad right across in front of Mr. Hoyt's store and I went out that path across there.

Q. And did you go down Main Street out to the Pee Dee Trading Post?

752 A. Yes, sir. Er, er, I come right on to the crossing there at the railroad and I come straight on down by

QUINCY BULLOCK

Mr. Medlin's house, the insurance man, until I got to 38. 763

Q. Well, then you got out there, what did you do?

A. I drunk a Pepsi-Cola.

Q. Where did you get the Pepsi-Cola?

A. I got it to this here place. This here—

Q. (Interrupting) Who waited on you? If you know.

A. A white lady.

Q. Were there other customers in the store when you got there?

A. Yes, sir, and some in the yard. There was two 764
little colored boys about that high (indicating about four feet) and there was a white lady about the size of this lady here (stenographer—five feet five; medium build) and about as tall as this lady, and she had a little baby; and that lady she was doing some shopping and then I had to wait then until that lady got through and them little boys was waiting, too, two little colored boys about that high.

Q. You had to wait around until they got through what shopping they had to do? 765

A. Yes, sir.

Q. Why were you going there, Quincy, that time of morning for a hog head?

A. Well, because when I work at the Pee Dee Que, the boss man would give me all the hog feet; hog feet and tallow and all; and I had the feets off about four hogs. And my wife was talking about making souse meat and er, er, I told her, er, er, that was I believe that was Thursday she was talking about making some souse meat and I told her there wasn't no need to get 766
no hog head then; I would get one later. So that's where I went, to get a hog head. The lady said they

QUINCY BULLOCK

didn't have none but they was expecting some that week.

Q. Then did you have somebody call a taxi from out there?

A. Yes, sir, er, er, while I was drinking er, er, the Pepsi-Cola, er, er, when I got through drinking the Pepsi-Cola, why er, I give a white boy the money to call a cab.

Q. All right. Why did you call a cab?

A. Well, because er, er, I was running late to get to my job then because er, er, the boss lady generally come pick me up about quarter 'til six and sometimes it be six by my clock. My clock don't keep regular good time and sometimes it be a little bit after six when she get there.

Q. Where did you get in the cab?

A. Sir?

Q. Where did you get up with the cab?

A. Well, the cab er, er, looked like wasn't going to come so I started on to town walking. And er, er, there is, I believe it's a brick house this side of the trading place; I believe it's a brick house. Well, I got along there about that house, the other side of the house, I saw him coming and I stopped him. And he asked me er, er, was I the one what called for the cab. I told him, "Yes." And so I got in with him, and—

Q. (Interrupting) He took you on home and you changed clothes and he took you on out to the restaurant, is that right?

A. Yes, sir, and then—

Q. (Interrupting) Now, Quincy, you know Mr. Hawkins and I talked to you on several occasions?

A. Yes, sir.

QUINCY BULLOCK

Q. Have we always advised you to tell the truth?

A. Yes, sir.

Q. Have we suggested anything to you that you tell?

A. Sir?

Q. Have we told you to tell anything other than the truth?

A. No, sir.

Q. When were you arrested?

A. I er, er, I was arrested on Thursday evening after I come from work.

Q. Where were you when you were arrested?

A. Lying in the front room in the long chair.

Q. Had you been working that day at your usual job?

A. Yes, sir.

Q. And you had come home and were lying down in the chair?

A. Yes, sir.

Q. What kind of chair is that you've got?

A. It's a long chair.

Q. A long chair. And who came to your house?

A. Mr. Harley Allen and er, er, Mr. Arthur Quick and er, er, Mr. Pete and Mr. Dick Bowen, and—let me see, I believe—I believe Mr. Tison was along, I believe.

Q. Mr. Tison?

A. I believe he was.

Q. Who is Mr. Tison?

A. Mr. Junior Tison.

Q. Is he an officer?

A. That one right there (indicating Clerl of Court.)

Q. This one right here (Clerk of Court)?

A. Yes, sir.

Q. This man right here?

A. Yes, sir.

QUINCY BULLOCK

765 Q. You think he was along?
A. Yes, sir.
Q. What did they tell you they wanted?
A. They didn't tell me they wanted nothing.
Q. What was it they said to you when they got there?
A. They didn't say er, er, nothing only just went to tearing up the house.
Q. Tearing it up how?
A. Er, er, well, just—just like they was hunting something.
766 Q. Did they tell you what they came there for?
A. No, sir.
Q. Did they ask you what your name was?
A. No, sir.
Q. Did you know—you knew Mr. Bowen before?
A. Yes, sir, I knowed Mr. Bowen.
Q. All right. Where did they take you then, Quincy?
A. They carry me to jail.
Q. To the jail here in Dillon?
A. Yes, sir.
76 Q. And that was about what time of day?
A. That was er, er, er, way after I got off from work.
Q. Was that before night?
A. Yes, sir. It was getting on down towards night.
Q. Well, when they put you in jail, did they tell you what they put you in jail for?
A. Er, er (thinking), I, I disremember; I don't believe they did.
Q. Well, did they question you about anything?
768 A. When?
Q. That afternoon.
A. (Thinking) No, sir, not—

QUINCY BULLOCK

Q. (Interrupting) They didn't question you about anything that afternoon? 769

A. No, sir.

Q. Did they question you about anything that night?

A. No, sir.

Q. When was the next time you saw the officers?

A. Er, er, the next morning.

Q. Who did you see?

A. Er, er, er, er, Mr. Pete. And Mr. Harley Allen and Mr. er, Quick and er, another man—I don't see him now. He a tall slim man.

Q. Was he the one that—is this the man here (pointing to Mr. Anderson)? 770

A. Yes, sir.

Q. That's Mr. Anderson. Where did you see them, Quincy?

A. At the jail.

Q. What part of the jail did you see them?

A. Er, er, up in the front office.

Q. The front office?

A. Yes, sir.

Q. Did they start questioning you then? 771

A. Yes, sir.

Q. What were they questioning you about?

A. Er, er, about that woman what got killed.

Q. What did you tell them?

A. Er, er, I told them I didn't know nothing about it.

Q. How long did they question you in the jail there that morning?

A. Er, er, they questioned me er, a long time.

Q. Were there any people on the outside of the jail that you saw? 772

A. No, sir, I didn't see none.

Q. Any crowd around the jail?

A. No, sir.

773 Q. Now after they questioned you in the new jail, where did they then take you?

A. When they carried me away from the new jail, they carried me to the old jail.

Q. And what part of the old jail did they take you in?

A. Er, I don't know, sir, er, er, what part it was; but you leave the new jail coming this a'way; and then you turn and you go in there and went through one room and went in a back room.

774 Q. Turned to your left after you got in the old jail?

A. Tturned to your right.

Q. Went through one room, and back into another room?

A. Yes, sir.

Q. Now, Quincy, who went with you?

A. Mr. Pete and er, er, Mr. Quick.

Q. Who else?

A. That's all went in there then. And er, er, Mr. Allen he come in there, too.

775 Q. And who else? Did anybody else come in there?

A. No, sir.

Q. Well, I want you to tell the Court and jury what took place in that room?

A. Well, er, er, er, er, when they er, er, carried me in there, er, er, the corner of the jail was there (indicating wall behind him). Aand there was a little bucket there and Mr. Pete had me set on the bucket.

Q. And that was in the corner of the room?

A. Yes, sir, in that co[illegible]

Q. All right.

776 A. And er, er, Mr. Pete had me set down on that bucket.

QUINCY BULLOCK

Q. When you say, "Mr. Pete," you are talking about Mr. Pete Rogers? 777

A. Mr. Rogers. Mr. Rogers. And er, er, er, er, er, there were two chairs in there and er, er, there were two cotton sheets in there.

Q. Two what?

A. Two cotton sheets.

Q. Cotton sheets?

A. Yes, sir, and er, er, er, er they took and throw them cotton sheets over my head, and went to work on me.

Q. Went to work on you? 778

A. Yes, sir.

Q. What do you mean by that?

A. Went to hitting me and er, er, kicking me.

Q. What were they saying to you, if anything?

A. Sir?

Q. What were they saying to you, if anything?

A. Er, asking me er, er, where that gun was. I wouldn't give them my gun, and I told them I didn't had nary one. And they say, "Yes, you is," says, "I know you got one." Says, "I know you got one." I still 779 told them I didn't had nary one. I wouldn't give them my gun. And so they told me, say, "You might as well give it up 'cause we're going to have it." And so I still wouldn't give my gun up. And so they kept on beating me and kicking me and er, er, after a while, er, they quit. And we come on out. An' when we come on out, I were crippled.

Q. You were what?

A. I were crippled. Crippled in this hip (indicating left hip); right there. 780

Q. Why wouldn't you tell them where the gun was?

A. Sir?

QUINCY BULLOCK

Q. Why wouldn't you tell them where the gun was?

781 A. Because er, er, er, er, I was afraid they'd take my gun.

Q. Afraid they'd take your gun.

A. Yes, sir.

Q. Well, did you tell them where it was before they left there?

A. Sir?

Q. Did you tell them where it was before they left the jail?

A. Er, er, er, er, when we left the old jail, we went 782 back to the new jail and er, er, er, er, my wife was in jail. And er, er, they, they, they, turned my wife out and I told my wife about it. And er, er, they brought me up here (referring to court house) and one of my sisters-in-law was up here. And er, er—

Q. (Interrupting) You say they brought you up here. You mean they brought you up to the court house?

A. Yes, sir.

Q. Where did they carry you to in the court house?

783 A. In a room downstairs.

Q. You mean in the basement or on the first floor?

A. I believe it's on the first floor over on that side (indicating front of court house) of the building.

Q. Go on and tell everything that happened.

A. And er, er, er, er, they er, brought me down there then and my sister-in-law told them, said, er, er, "Ain't no need to have them both locked up," says, er, er, "My sister house yonder and nobody there with it and all," said er, er, "You just as well turn Mattie out." So er, er, they went on back and turned my wife out and I 784 went in the cell where my wife was and show my wife how I had been beat and kicked (crying).

QUINCY BULLOCK

Q. All right. Did you—

A. (Continues) (Sobbing) Knocked knots all over my legs (crying).

Q. Did you tell them where the gun was then?

A. I told them, er, er, if they turn my wife out, I would tell them where the gun was. And they turned my wife out and Mr. Allen—Mr. Allen and Mr. Quick carry me and my wife to the house and I showed Mr. Allen where it was.

Q. Where did they take you to then?

A. Sir?

Q. Where did they take you to then?

A. When?

Q. After they took you back, after you showed them where the gun was?

A. Carried me back er, er, er, er, to the jail. And then carry me to Marion jail.

Q. Did you talk to Sheriff Rogers and the other officers in the yard at the county jail in Marion?

A. No, sir. They carried me down there on Friday night and I didn't see them no more until Sunday night. They come at me Sunday night.

Q. Where did they bring you then?

A. Er, er, brought me back to Dillon.

Q. I show you a paper bearing the date August 11, 1958, marked on it is State's Exhibit No. 9 and ask you if that is your signature on that paper?

A. What you mean? Er, er, did I sign that paper? That is the way I write.

Q. That's the way you write?

A. Yes, sir. That is the best I can do.

Q. Can you read?

A. No, sir, nothing only my name.

QUINCY BULLOCK

789 Q. I show you State's Exhibit No. 10 and ask you if—

A. (Interrupting) Yes, sir.

Q. (Continues) That is your writing on there?

A. Yes, sir.

Q. Were those statements read over to you at the time you signed them?

A. Er, er, no, sir, er, er, ain't nothing been read to me.

Q. Were you delivered any copy of those statements?

790 A. I ain't got none.

Q. Well, were you delivered any? Did anybody give you a copy of what you signed?

A. No, sir.

Q. Why did you sign those papers?

A. Because they—they told me to sign them. Asked me—

Q. (Interrupting) Why did you sign them just because they told you to sign them?

791 A. Well, because I didn't know. Er, er, they asked me could I write. I told them I could write my name. They told me put my name on there.

Q. Well, you put your name on a paper? On two papers?

A. I don't know, sir, how many papers.

Q. Well, they are allegedly confessions. If you didn't do this, why did you sign those papers?

A. Sir?

Q. If you didn't commit this crime, why did you sign those papers?

792 A. Well, er, er, because they told me to put my name on there.

QUINCY BULLOCK

Q. Did they explain to you what was in the papers?

A. No, sir.

Q. Were you afraid of anything at the time?

A. Sir?

Q. Were you afraid of anything at the time you signed those papers?

A. When I put my name on there?

Q. Yes.

A. Them laws had beat me and kicked me (sobs).

Q. Well, were you afraid of anything else that might happen to you at the time?

A. I didn't—I didn't know what they might do if I didn't put my name on there.

Q. Was that the reason that you put your name on there?

A. Yes, sir.

Q. Now did you later go down to the cemetery and point out some places to the sheriff's office—or officers?

A. Er, er, er, er, we went down there and I—I point out anywhere.

Q. What you mean, "You pointed out anywhere?"

A. Just (indicates out in front of witness stand) anywhere I could. So they wouldn't get a'hold of me no more.

Q. So what?

A. So they wouldn't get a'hold of me no more (sobs).

Q. Did they make any suggestions to you about the area and the location of the automobile and so forth?

A. Er, er, er-er, what you mean?

Q. Did they show you where the area was or did you show it to them?

A. Er, er, I—er, er, heard them talking about it.

Q. And then you pointed it out to them?

A. Sir?

QUINCY BULLOCK

Q. Then you say you pointed out—
797 A. (Interrupting) Yes, sir.

Q. (Continues) The position?

A. I heard them talking about it.

Q. Did you later go to a place in the woods and point out a spot there?

A. Er, er, er, they took me and carried me er, er, around the swamp. And er, er, they had er, er, drive the car way down there back of a old house down there side the woods. And they had been a heap of cars in there. There had been a heap of cars in there. You
798 could tell by the car trailings and er, er—

Q. (Interrupting) What did they say to you over there in that spot?

A. Er, er, they told me er, er, er, where that dead woman was laying at? I told them I didn't know. I told them I didn't know. And I look around. I look around and I seen er, er looked like two clean places over there. And I told them, "Right here." Well, I didn't know. I was just picking out somewhere. And er, er, Mr. Allen—Mr. Allen asked me what kind of dress did
799 she have on? I told him I didn't know. I told him I hadn't seen her.

Q. Well, what else was down there? Did anybody get in any position and ask you to show them?

A. Er, er, Mr. Allen er, he sat down. Mr. Allen sat down over there. And er, er, Mr. Pete was there and Mr. er, er, Quick was there. And Mr. er, er, Allen—Mr. Allen told me, "Show me er, er, how you shot that woman." I told him er, er, I hadn't shot no woman. And er, er, er, er, he say, "Oh, yes, you have." "Oh, yes, you
800 did," says, "Come on show me." So I told him (shaking head) I hadn't shot no woman. So he asked me

(Quincy Bullock

didn't I shoot that woman in the head? I told him, "No, sir." And so (shaking head) I was scared to death.

Q. Did you shoot Carolyn Barfield Wolshock?

A. No, sir. No, sir. I didn't even know the woman. Hadn't even never seen her. Some of them er, asked me er, didn't that woman work out there where I work. I told them, "No."

Q. Did you shoot Jimmy Horne?

A. No, sir. That time of night, my gun were home. I put my gun up when I come from my sister-in-law. I had it down to my sister-in-law. And I had it when I passed Mr. Bowen. When I got on to the house, I—

Q. (Interrupting) Did you shoot into the rear of an automobile parked in Mount Holly Cemetery?

A. I ain't shot my gun nowhere that night.

Mr. Britt: You may examine him.

(Jury retires. Recess. Jury returns.)

(Quincy Bullock resumes stand.)

Cross Examination

By Sol. Kilgo:

Q. Quincy, you signed these statements on—

The Court: Do you waive polling of the jury?

Sol. Kilgo: Yes, sir.

Mr. Britt: Yes, sir.

Q. You signed these statements on Monday, didn't you, August the 11th?

A. I don't know, sir.

Q. You don't know what day? Well, on the day you signed the statements, had you been hit that day by the officers?

A. Yes, sir.

Q. Where did they hit you?

A. Up there and there (left shoulder and hip) and there.

QUINCY BULLOCK

Q. Did this swell up on you pretty bad?
A. Yes, sir. That eye about like this.
Q. Your eye was about closed?
A. Yes, sir. It got hurt and there on the leg there (shin of right leg); see the place there?
Q. Your right leg?
A. And this one too (left shin).
Q. And your left arm?
A. Yes, sir, right there and there (left stomach and hip).
Q. How big was the knot on the side of your head?
A. It was er, er, pretty big. Can't you see the sign of it? See there.
Q. And you had a knot there?
A. Yes, sir.
Q. And your eye was practically closed?
A. Yes, sir.
Q. Is that why you signed the statement?
A. Yes, sir.
Q. You were scared?
A. Yes, sir.
Q. Of more treatment like that?
A. Yes, sir.
Q. And you were in that condition the day you signed the statement?
A. Yes, sir.
Q. And your eye was nearly closed?
A. Yes, sir.
Q. Now after you signed the statement, did you go out to the cemetery with the officers?
A. Yes, sir.
Q. What cemetery is that?
A. Sir?
Q. What cemetery is that?

QUINCY BULLOCK

A. I don't know, sir. It's a cemetery back over this way (indicating southwest). 809

Q. Well, you hang around that cemetery a good bit, don't you?

A. No, sir.

Q. Had you ever been there before?

A. I been through there digging fish bait.

Q. How long ago?

A. It had been quite a bit. Last year because I ain't been fishing this year.

Q. Had you dug—I mean when you had been there digging fish bait, that was before Mrs. Wolshock got 810 killed? Before this girl got killed?

A. Yes, sir.

Q. It wasn't the night she was killed?

A. No, sir.

Q. You didn't go near the cemetery that night?

A. No, sir.

Q. Or Maple Swamp?

A. No, sir, I ain't dug no bait since last year.

Q. Now you didn't go out to the cemetery that Saturday night? 811

A. No, sir.

Q. You didn't go Sunday, did you?

A. I didn't—I didn't go at all.

Q. You didn't go at all until you went with the officers?

A. Yes, sir.

Q. And that is true of Maple Swamp too? You didn't go to Maple Swamp Saturday night?

A. Sir?

Q. You didn't go to Maple Swamp Saturday night, 812 did you?

A. What? Over there to the graveyard?

QUINCY BULLOCK

Q. No, the swamp over beyond the graveyard.

813 A. No, sir, I ain't been back over there at all.

Q. Yes. Not the night she was killed or any time since then except when you went with the officers?

A. Yes, sir.

Q. Now when you went out to the graveyard with the officers, they took some pictures out there, didn't they? Do you remember?

A. Yes, sir, they took some pictures.

Q. And that was the same day you signed the statements?

814 A. I don't know, sir, whether that were the same day or not.

Q. Didn't you sign a statement and then go on out with them and point out anything they wanted you to so they wouldn't bother you any more?

A. I disremember whether it was the same day or not. I can't tell you.

Q. Well, there is the picture there. Who is in that picture?

A. That me. That Mr. Allen. That look like Mr.

815 Quick.

Q. And that was taken out at the cemetery, wasn't it?

A. (Looks at picture) I don't know, sir, whether that is at the cemetery or not. I believe it is because it look like a monument back there—look like.

Mr. Britt: I can't hear the witness.

The Court: Speak up.

A. Sir?

Mr. Britt: We can't hear what you said.

816 A. I said I believe that is took to the cemetery because that look like a monument back there.

QUINCY BULLOCK

Q. You remember being out at the cemetery with the officers?

A. Yes, sir.

Q. And you remember them taking some pictures?

A. Yes, sir.

Q. And you didn't go out there but once with them, did you?

A. I went out there with them more than that.

Q. Different days?

A. Yes, sir.

Q. Well, did they take pictures more than one time when you were out there?

A. I don't believe they did.

Q. Just one time.

A. Let's see. (thinking) I don't know how many times they took pictures to tell the truth.

Q. Well, no one is trying to trip you up or hurry you at all. Take your time. At any rate that is a picture of you and Mr. [redacted] Mr. Quick?

A. That me and Mr. Allen and it look like Mr. Quick.

Q. And you think that is at the cemetery?

A. Yes, sir, that look like a monument over yonder it look like.

Q. Now you bought this pistol from Mr. Rowell?

A. I bought it from a bicycle man.

Q. And you heard the man testify here. Is that the man you bought it from?

A. Er, er,

Q. The one who said on the stand yesterday he sold it to you?

A. Yes, sir, that's the man I got it from.

Q. Why did you want the pistol?

QUINCY BULLOCK

A. Er, er, to keep at my house because I didn't have no gun.

Q. Why did you want to keep it at your house?

A. Well, er, er, because people generally keep them to the house because ain't no telling er, er, what would happen—people come break in on you, robbers or anything.

Q. And that is the only reason you wanted it?

A. Yes, sir.

Q. And on this Saturday night, when you were out at your sister-in-law's, you had the pistol with you?

A. Yes, sir.

Q. But when you got home, you put it away. Is that right?

A. Yes, sir.

Q. Why did you take it over to your sister-in-law's?

A. Er, er, er, so they could see it. I wanted them to see it.

Q. Why did you want them to see it?

A. Well, er, er, because er, er, I didn't had no protection at the house and I wanted them to see it that I had got me a protector.

Q. Why did you want them to know you had some protection?

A. Well, er, er, I just wanted them to see it.

Q. You just wanted them to know it?

A. Yes, sir.

Q. And what did you call the pistol and bullets when you were out there? Did you call them something?

A. Er, er, I told er, Elva that that was the old hen and biddies.

Q. The old hen and biddies. And this is the pistol, isn't it? This is the pistol?

A. I don't know, sir.

QUINCY BULLOCK

Q. Look at it and see.

A. It look like it got a new roller in it. That man said he had to put a roller in it.

Q. You shoot lefthanded?

A. Sir?

Q. Do you shoot lefthanded? How do you shoot? Lefthanded?

A. I shoot like that (indicating).

Q. Righthanded? How do you shoot?

A. Sir?

Q. How do you shoot?

A. I shoot like that (right hand).

Q. Now you were arrested on Thursday, weren't you, Quincy?

A. Yes, sir.

Q. And you knew nothing about this girl—you had nothing to do with killing this girl?

A. I didn't know her.

Q. You didn't know what kind of gun she was killed with, did you?

A. No, sir.

Q. You didn't know where she was shot, did you?

A. Er, er, not until I heard them talking about it out to my job.

Q. You didn't know whether she was shot with a pistol or a rifle, did you?

A. No, sir.

Q. And you didn't know whether she was shot with a rifle or a shotgun as a matter of fact, did you?

A. No, sir.

Q. Well, Quincy, why was it when the sheriff asked you if you had a pistol, you told him you didn't have one?

QUINCY BULLOCK

A. I was afraid er, er, er, er, afraid er, er, if he see my gun, he would take my gun.

Q. You just didn't want him to take your gun?

A. No, sir.

Q. And you stayed in jail overnight Thursday night, didn't you?

A. Yes, sir.

Q. And you missed work Friday in jail, didn't you?

A. Yes, sir.

Q. And you refused to tell the sheriff about this pistol only because you didn't want him to take it?

A. Yes, sir.

Q. There wasn't any other reason for not telling him about it?

A. No, sir.

Q. And you let them beat you and kick you in the kidneys and on the legs and arm and hit you on the side of your face before you ever told them you had a pistol?

A. Yes, sir.

Q. And all that because you didn't want the pistol taken away from you.

A. No, sir.

Q. Well, you had a right to have a pistol at your home, didn't you?

A. Well, er, er, that's how come I to buy it.

Q. Well, what made you think the sheriff would take your pistol?

A. Well, er, er, er, er, I didn't know whether he thought I supposed to have one at the house or not.

Q. What's that?

A. I didn't know whether he thought I supposed to have one at the house or not.

Q. All right. But at any rate, you didn't—you told them you didn't own a pistol at all? 833

A. Yes, sir.

Q. And after Elva Bethea—you came to the court house and went in this room right out here and Elva Bethea was here or came here, wasn't she?

A. My wife's sister was up here.

Q. And she told the officers in your presence that you did have a pistol? Didn't she?

A. Yes, sir.

Q. And then Mr. Rowell told them he sold you a pistol? 834

A. Mr. er, er, Mr. Rowell wasn't up here.

Q. Mr. Rowell?

A. He wasn't up here.

Q. Did he somewhere else tell them in your presence that he sold you the pistol?

A. Er, er, yes, sir, down to the jail.

Q. And that was all before you told the officers you had a pistol, wasn't it?

A. Sir?

Q. That was all before you admitted that you owned a pistol. Is that right? 835

A. What you mean?

Q. When your sister-in-law and Mr. Rowell told them about—Mr. Rowell told them about selling you a pistol and your sister-in-law told them about seeing a pistol, that was before you admitted to the officers that you owned a pistol?

A. I er, er, I can't hardly—I can't (witness seems not to understand the question).

Q. That's all right. Now you worked at the Pee Dee Que and were due at work on Sunday morning? 836

A. Sir?

QUINCY BULLOCK

837 Q. You were due at work Sunday morning, August 3rd, weren't you?

A. Yes, sir. I worked every day nearabout.

Q. And you got home that night about midnight Saturday night and—how many beers had you had?

A. How many what?

Q. How many beers had you had?

A. Er, er, er, er, me and Mr. Gary drunk one apiece.

Q. Is that all you had had?

A. Yes, sir.

Q. And your wife was not at home, was she?

838 A. Er, er,

Q. When you got there.

A. Er, er, when I left Mr. Gary and come home?

Q. When you got home that night?

A. Well, I don't know whether she was in the house or not because I didn't go in the house.

Q. You didn't bother to see.

A. No, sir.

Q. No lights were on, were they?

A. No, sir. I went on to the rest room.

839 Q. You went on to the rest room and spent the night there?

A. Yes, sir.

Q. What time did you get up, Quincy?

A. Er, er, I got up er, er, I reckon about, er, I reckon about—about five o'clock or something until five, I reckon.

Q. About five?

A. Anyhow I tried to leave time enough that I could go over yonder after me a hog head and get back time 840 the boss lady to get there.

Q. They were supposed to pick you up at what time?

QUINCY BULLOCK

A. Er, er, the er, er, boss lady generally pick me up about er, er, fifteen or ten minutes to six. 841

Q. Fifteen or ten minutes to six. And you left home about five?

A. But sometimes it would be after six by my time whenever she get there.

Q. Well, let's say around six o'clock. Is that about right?

A. Sir?

Q. Around six o'clock?

A. When she supposed to be there? 842

Q. Yes.

A. Yes, sir, er, er, we supposed to be at the job at six.

Q. Well, what time do they pick you up generally?

A. About fifteen or ten minutes to six. But sometimes it be after six by my time.

Q. Now there is a path that goes from your house to the toilet?

A. Er, er, my rest room is right in the back of the back yard.

843

Q. And there is a path between it and the house?

A. A path between it and the kitchen door.

Q. And that is the only rest room you and your wife have?

A. Yes, sir.

Q. And you use that path going to and from it?

A. Yes, sir.

Q. And you got up about five. Why were you going out to the Trading Post?

A. Er, er, the boss man er, er, give me all the hog feet, all the tallow. 844

Q. The boss man at the Pee Dee Que?

QUINCY BULLOCK

A. Yes, sir, we barbecues out there. I help the boss man cut up hogs and all.

Q. I understand. But why were you going out to the Pee Dee Que—I mean to Tyler's?

A. Er, er, er, to get me a hog head, er, my wife was talking about er, making souse meat and I had about the feet off of four hogs because we generally barbecue two at the time. We generally barbecue two hogs at the time.

Q. And you wanted to make some souse meat?

A. Yes, sir, she was talking about making souse meat.

Q. And did your figure they would be open between five and six o'clock in the morning?

A. Sir?

Q. Did you figure they would be open at the Trading Post between five and six on Sunday morning?

A. I figured they would time I walked down there.

Q. Well, what time did you think you would get there to talk to them about the hog head?

A. Well, I didn't know er, er, what time I would get there, but er, er, I thought I could get there and probably get my hog head and get back by the time the boss lady got there.

Q. And you thought they would be open by five o'clock or a little after on Sunday morning. What made you think they would be open that time Sunday morning?

A. Well, I didn't know.

Q. You didn't know.

A. No, sir.

Q. Well, you've got a phone at your house, haven't you?

A. Telephone?

QUINCY BULLOCK

Q. Yes.

A. Yes, sir.

Q. They've got a telephone at the Trading Post, haven't they?

A. I don't know, sir.

Q. You don't know. Didn't you have somebody to call from the Trading Post to get a cab for you?

A. Well, there one out in the yard.

Q. Yes. Well, you knew there was one out there. You didn't know whether they had a phone there or not?

A. No, sir.

Q. But you figured they would be up between five and six o'clock in the morning?

A. I didn't know er, er, what time they be up.

Q. But you intended to be back home at a quarter to six and go to work?

A. So I could catch the boss lady.

Q. That's right. You intended to be back home at a quarter of six.

A. I intended er, er, to be back if I could time enough to catch the boss lady.

Q. That's right. And how far is it from your home out to the Trading Post?

A. It's er, er, a good mile.

Q. A good mile.

A. Or more. Little bit.

Q. A good mile or more. And what time did the taxi-cab pick you up at the Trading Post?

A. Er, er, he picked me up er, er, I reckon about er, er, I believe he said it was something until seven I believe he said.

Q. Didn't he say about eight-thirty?

A. Er, er, I believe he said something about seven or something until eight. Anyhow he had done picked

QUINCY BULLOCK

me up and er, er, I had done went home and put on
863 clean clothes and he carried me to the Pee Dee Que and I were there about eight o'clock.

Q. When he picked you up, you were already late for work, weren't you?

A. Yes, sir.

Q. You didn't have the hog head with you, did you?

A. Er, er, the er, er, lady said er, er, they didn't had none now. They was looking for some the—

Q. (Interrupting) That's right. You didn't have the hog head. And you had a shirt on, didn't you?

864 A. Yes, sir.

Q. And you had your breeches on?

A. Yes, sir.

Q. You had your shoes on?

A. Yes, sir.

Q. And you were already late for work, weren't you?

A. Yes, sir.

Q. And yet you asked the taxicab driver to take you home so you could change clothes?

A. Yes, sir.

865 Q. Why did you want to change clothes?

A. I had on my old dirty clothes I had been working in that week, and we didn't wear no clothes out there like that. We didn't go nasty.

Q. Why didn't you change clothes before you went out to the Trading Post so you wouldn't have to come back by there?

A. Well, er, er, if I had of got my hog head, I would have had to come back home.

Q. All right. But you still wouldn't have had to
866 change clothes on the way back?

A. Sir?

QUINCY BULLOCK

Q. You wouldn't have had to change clothes on the way back?

A. When I got home?

Q. Yes.

A. If I had get my hog head?

Q. Yes.

A. I wouldn't have had to change clothes?

Q. If you had changed before you left?

A. Well, er, er, er, I didn't go er, er, go in the house. I just got out the rest room and went on.

Q. Well, why didn't you go in the house?

A. Well, er, er, I just didn't er, er, go in.

Q. Why not?

A. Well, er, er, it was, you know, getting on down late then, and by the time I would walk over yonder and get back, why I know the boss lady would be there pretty much.

Q. Well, now, Quiney, you had a telephone at your home? Didn't you?

A. Yes, sir.

Q. Why didn't you get a taxicab to take you over to the Trading Post?

A. Sir?

Q. Why didn't you call a taxi to come get you and take you over to the Trading Post so you wouldn't be late?

A. Well, er, er, I figured er, er, I could walk over there, and I didn't have that much, too much money. And I figured I could walk over there and get the head and get back by the time the boss lady come.

Q. Well, you had enough money to get him to take you from the Trading Post home? Didn't you?

A. Yes, sir.

QUINCY BULLOCK

Q. And you had enough money to take you from
861 home out to your work? Didn't you?

A. Yes, sir.

Q. And you had enough money to get another cab to bring you from work back home after you were late?

A. Yes, sir.

Q. Now that wouldn't cost as much as to get a cab to take you from home to the Trading Post and back? That wouldn't cost any more, would it?

A. Well, er, er, er, er, if I would have got a cab to carry me from home er, er, to the Trading Post, and
862 then that would have cost more, wouldn't it?

Q. That wouldn't cost you as much as it cost you the other way around?

A. I don't know, sir.

Q. And you wouldn't have had to pay to go out to the Pee Dee Que if you had gotten back and ridden with your boss, would you?

A. No, sir.

Q. So you could actually have gotten a cab from the Trading Post and back cheaper than what you paid
863 the cab that morning, couldn't you?

A. I don't know, sir.

Q. You don't? Well, it is not as far from your house to the Trading Post as it is out to the Pee Dee Que, is it?

A. No, sir, it's closer to the Trading Post.

Q. It's closer to the Trading Post. All right. Now, Quincy, there is nothing wrong with you spending the night in your bathroom or rest room there at your home, is there?

A. Sir?

Q. There is nothing wrong with you spending the night in your rest room there at home, is there?

A. No, sir.

Q. Now when the sheriff arrested you and asked you where you were that night, didn't you tell him that you had gone up to Whiteville to see your brother?

A. That's right.

Q. That you had gone on the bus?

A. That's right.

Q. And that you got somebody—hired somebody there to bring you back home?

A. That's right.

Q. Why did you tell the sheriff that rather than tell him the truth?

A. Well, er, er, er, er, why I told them that. You see the man yonder (indicating press table); that was my boss man.

Q. Which man?

A. That man sitting right there with eyeglasses on.

Q. Your boss man?

A. That was my boss man.

Q. Which one are you talking about? (To man at press table) Stand up.

Is th' the man you're talking about?

A. Yes, sir.

Q. All right. Is that the man that runs the Pee Dee Que?

A. Yes, sir.

Q. Well, what's that got to do with you telling the sheriff you went to Whiteville?

A. Well, that's just what er, er, what I'm fixing to tell you now.

Q. All right. Go ahead and tell us.

A. Er, er, er, he—he—he stopped me from drinking, him and the Missis stopped me from—I used to drink

QUINCY BULLOCK

869 whiskey and the law would get me and he would have to pay me out. And he got after me about it.

Q. (Interrupting) Well, you never did too much drinking, did you?

A. Sir?

Q. You never did too much drinking, did you?

A. Sometimes I drink enough the law would grab me.

Q. All right. Go ahead.

A. And, er, er, he got after me about it. Him and the boss lady got after me about it.

870 Q. They're the ones that got after you. Your wife didn't get after you about it?

A. Yes, sir, she got after me too. Everywhere I go, they was after me.

Q. All right.

A. And I told him I was going to quit. And I told the boss lady that. And I told my old lady that. And I thought I could slip around and take another little shot unbeknowing to my boss man, and the law grab be again. And he asked me, "What ail you?" I told him, 871 "I don't know." Say, "Why they grab you like that?" I say, "I don't know." I say, "It look like they love to grab me," that what I told him. I told him, "It look like they love to grab me." I told him I was going to quit then.

Q. So you promised your boss man you were going to quit drinking?

A. Yes, sir, and the boss lady. And—and—and my wife. And er, er, well, I quit drinking whiskey and the boss man—I commenced saving money. I could have more money. And I showed my money to the boss man; the boss man thought I was broke. He thought I was broke and I showed the boss man my money. And

QUINCY BULLOCK

I told him, "Since I quit drinking, I can have more money."

Q. Well, what's that got to do with Whiteville?

A. Sir?

Q. What's that got to do with going to Whiteville?

A. Well, I still ain't got there yet. I'm coming on around there.

Q. All right.

A. I'm still coming on around there.

Q. All right,

A. And er, er, well, I quit drinking whiskey and I could have more money, you see? All right, then, okay now, after I quit and all, well, I could have more money, you see? All right. Why I said I went to Whiteville. All right now. I had drunk some beer, see? I had drunk some beer, and, well, I was late getting to the job, see? All right, now, my boss man there, if he had of found out that I was drinking the beer, don't you see, and got late and all, why he going to get after me because I had told him and the boss lady I was quit drinking, see?

Q. I understand. You had had one bottle of beer Saturday night and when the sheriff arrested you, you told him you had been in Whiteville all night so the boss wouldn't know you had had that bottle of beer. Is that what it was?

A. Yes, sir, and that, that's what I didn't go in the house if my wife smelled it on me, she going to raise sand.

Q. And you spent the night in the toilet all night rather than let your wife see you after you had a bottle of beer?

A. Yes, sir.

QUINCY BULLOCK

Q. Now, Quincy, you know Mr. Moody over here? (Asks man at press table to stand up) You ever seen this gentleman before?

A. Yes, sir, me and him work together.

Q. You and he work together. And was he along when you went over there with the sheriff's officers to show them where the body of this lady was found? Wasn't he along in the crowd? Look at him good and think good.

A. I don't know, sir.

Q. You remember all the people that you were scared of at that time?

A. Sir?

Q. You remember all the people that you were scared of at that time. You don't remember whether he was along with them or not?

A. No, sir, there was a heap of them.

Q. Well, as far as you know, he was along?

A. I don't know, sir.

Q. You don't know whether he was or not?

A. No, sir.

Q. Do you know Dr. Branford?

A. No, sir, I don't know him.

Q. You don't know Dr. Branford?

A. No, sir.

Q. You ever seen him before in your life?

A. I don't know, sir.

Q. Dr. Branford, will you stand, please? (Doctor stands.) You know Dr. Branford, don't you?

A. No, sir, I don't know him.

Q. You ever see him before?

A. Seem like I seen him.

Q. Well, didn't you see him down at the jail? Didn't he come down there when you were there with the

QUINCY BULLOCK

sheriff and other officers and didn't you say in his presence that you shot this woman in the top of the head?

A. No, sir.

Q. You didn't do it?

A. No, sir.

Q. Do you remember him coming down there when they were questioning you about it?

A. I believe I er, er, I believe I saw him one morning. I believe it was one morning.

Q. What kind of car was this, Quincy?

A. Sir?

Q. What kind of car was this?

A. What kind of car? Where?

Q. They showed you out at the cemetery?

A. I don't know, sir, what kind of car.

Q. Did it have holes in the windows?

A. Sir?

Q. Did it have holes in the windows?

A. Er, er,

Q. In the back?

A. Yes, sir, there was holes.

Q. That car actually when it was out at the cemetery all the doors were closed and locked on that car, weren't they?

A. I don't know, sir.

Q. What?

A. I don't know, sir.

Q. You don't remember?

A. When?

Q. On Saturday night when those people were in there, those doors were closed and locked?

A. That Saturday night?

Q. Yes.

QUINCY BULLOCK

A. I don't know, sir, because I didn't—I didn't go
885 down there that Saturday night.

Q. You didn't go down there. Now were they closed and—didn't they have the car out there when you were out there with them or not?

A. Who that?

Q. The officers. When you went to the cemetery with them.

A. When they took the pictures?

Q. Yes.

A. Mr. Allen carried a car down there.

886 Q. And it was the same car, wasn't it?

A. I don't know, sir.

Q. What kind of car did he carry out there?

A. I don't know, sir, what kind it was.

Q. Was it an Oldsmobile?

A. Some kind of big car.

Q. And you, as a matter of fact, stood out there and showed them where you stood and pointed toward the car the way you shot, didn't you?

A. Er, after they er, er, er, er, er, got a'hold of me
887 and all.

Q. What's that?

A. After they er, er, er, er, got a'hold of me and all.

Q. And beat you?

A. Yes, sir.

Q. And you went out there and pointed to the car and showed them how you shot into it?

A. Er, er, er, I didn't—I didn't show them how I shot into it. Er, I just showed them er, er, how you or anybody might shoot.

888 Q. Just how anybody would shoot.

A. Yes, sir.

QUINCY BULLOCK

Q. And you did that because they beat you and you were scared? 889

A. That's right.

Q. All right. Quincy, you remember what time the taxicab picked you up out there?

A. Out where?

Q. At Tyler's Trading Post?

A. Er, er, I reckon it was about—I asked Mr. Bailey er, er, about what time it was.

Q. Yes.

A. And er, er, er, Mr. Bailey said it was something about after seven something or other— 890

Q. (Interrupting) And you knew you were late at the time?

A. Sir?

Q. You knew you were late for work then?

A. That's right because that is how come I to call the cab.

Q. When you got out there to the Trading Post, it was open, wasn't it?

A. Yes, sir.

Q. And it was Sunday morning? 891

A. Yes, sir.

Q. You know what time they generally open on Sunday morning?

A. No, sir, I don't.

Q. You don't have any idea?

A. No, sir. Because—

Q. (Interrupting) What did you tell the taxicab driver about where you had been all night?

A. Sir?

Q. Didn't the taxicab driver ask you where you had been all night? 892

QUINCY BULLOCK

A. Er, er, I don't know whether he did or not. But
893 anyhow I told him I had been out in the country last night. I told him that.

Q. Why did you want to tell him a lie? That wasn't true, was it?

A. Sir?

Q. That wasn't true, was it?

A. What?

Q. You hadn't been out in the country all night?

A. No, sir. I had been down on 301; me and Mr. Gary.

894 Q. I'm talking about all night. You told him you had been in the country all night?

A. I didn't tell him all night. I said "last night."

Q. Oh. You didn't tell him you had been out all night?

A. No, sir, I told him last—I had been out in the country last night.

Q. Well, where in the country you talking about? You just went out a few miles and came right back?

A. Well, ain't that in the country? Where that is?
895 Is that in town?

Q. Quincy, after you signed the statements here, did they take you anywhere else?

A. Er, er, er, er, they carry me, er, er, somewhere down yonder.

Q. Did they take you to Columbia?

A. Yes, sir, I been there.

Q. What?

A. I been there.

Q. Did they beat you over there, too?

A. Sir?

896 Q. Did they beat you over in Columbia, too?

A. No, sir.

QUINCY BULLOCK

Q. They didn't beat you there?
A. Them people didn't.
Q. What's that?
A. No, sir, them people didn't.
Q. They didn't scare you in any way, did they?
A. I were—I were—I were already scared.
Q. You were already scared.
A. They didn't have to scare me.
Q. They treated you nice in Columbia, didn't they?
A. I don't know, sir, whether they treated me nice or not but they didn't beat me or nothing.
Q. They didn't beat you?
A. No, sir.
Q. And did you sign a statement over there, too?
A. Er, er, er, er, I don't know, sir.
Q. Why don't you know?
A. Sir?
Q. Why don't you know?
A. Well, just because er—
Q. (Interrupting) You remember all about signing these statements for Sheriff Rogers, don't you?
A. I signed them here at Dillon.
Q. And you remember all about it and you signed them so they wouldn't beat you any more?
A. Yes, sir.
Q. I ask you if two days later you signed a statement in Columbia?
A. Sir?
Q. I ask you if two days later, after that, you signed a statement in Columbia?
A. I don't know, sir.
Q. You don't know whether you did or not?
A. No, sir.

QUINCY BULLOCK

Q. But you remember everything about these. You
901 remember you signed these because you were scared not to?

A. Yes, sir, I was at Dillon.

Sol. Kilgo: Your witness.

Re-direct Examination

By Mr. Britt:

Q. Quincy, did they take you to Columbia where some examinations were made?

A. Sir?

Q. Did they take you to Columbia and did some doc-
902 tors come and examine you while you were in Columbia?

A. Er, er, I went to the hospital.

Q. What hospital?

A. I don't know, sir.

Q. Where was it located? Was it at the penitentiary?

A. It was in town.

Q. It wasn't at the penitentiary?

A. No, sir—it was—there were one there.

Q. But they took you up to another hospital uptown
903 in Columbia?

A. Yes, sir.

Q. How long did they keep you there?

A. Carry me that morning and brought me back that day.

Q. Did the people who talked to you either there or in the penitentiary while you were in Columbia explain to you who they were?

A. Sir?

Q. Did the people who talked to you while you were
904 in the hospital or in the penitentiary explain to you who they were?

A. No, sir.

QUINCY BULLOCK
HARLEY ALLEN

Q. How many different people talked to you?

A. The people in the hospital we didn't talk.

Q. Do you see anybody here in the court room today who talked to you in Columbia?

A. (Looks around) No, sir.

Q. (Dr. Wyman stands at Mr. Britt's request) Did you see this gentleman in Columbia?

A. (Shakes head) No, sir, I don't think I did.

Q. Mr. Britt: Come down.

If the Court please, I assume the State is going to put something up in reply and we would like for the defendant to hear it. (Moves defendant's chair back out in front of Clerk of Court's desk in position it was during most of the State's case in chief.)

Exhibits offered by Mr. Hawkins: If the Court please, we would like to offer in evidence the two documents that we had marked for identification, these copies of State's Exhibits No. 9 and No. 10. (Copies of Ex. No. 9 and Ex. No. 10 marked Defts. Ex. No. "A" and Defts. Ex. No. "B".)

Mr. Hawkins: That is the defense, if the Court please.

* * *

REPLY TESTIMONY

Mr. HARLEY ALLEN, recalled:

Direct Examination

By Sol. Kilgo:

Q. Mr. Allen, were you present when the defendant signed both statements on August 11th?

A. I think I were. I am pretty sure I did. Let me look at them. (Looks at Exhibits 9 and 10) Yes, sir.

HARLEY ALLEN

Q. Had he at the time or at any time prior to that
909 to your knowledge been hit on the side of the face?

A. No, sir, he has not been hit at no time to my knowledge.

Q. Had he been hit anywhere to your knowledge?

A. No, sir.

Q. Had he had a cotton sheet put over his head at any time to your knowledge?

A. I haven't even seen a cotton sheet in the investigation.

Q. When you went to his home with him to locate
910 his pistol, did you have to carry him because he was unable to walk?

A. No, sir.

Q. Did you have to assist him?

A. No, sir.

Q. Did he walk by himself and alone?

A. Yes, sir.

Q. I ask you who is in this photograph?

A. Mr. Quick and Quincy and myself.

Q. What day was that photograph taken?

911 A. On Monday following his arrest on Thursday.

Q. Is that the same day that he signed the statements?

A. Yes, sir.

Q. How long after the signing of the statements was this picture made?

A. Shortly after then. We ate lunch and then taken him out to the cemetery.

Q. Would you say it was within two hours of the signing of the statement?

912 A. That is less than two hours. I would say an hour and a half.

Q. An hour and a half to two hours?

HARLEY ALLEN

A. Yes, sir.

Q. Were the statements signed at the same time or different times?

A. Well, they were made out the same morning, but at just a little different interval.

Q. Was this within an hour and a half or two hours after the signing of the last statement?

A. Yes, sir.

Q. Now, is that a true representation of Quincy Bullock's condition at that time?

A. Yes, sir, he was pointing out some vital places—I mean some important places in the scene there.

Q. Is that in the cemetery?

A. Yes, sir.

Exhibit offered by Sol. Kilgo: The State offers the photograph in evidence if the Court please.

Mr. Britt: No objection.

(Photograph showing Mr. Allen, Mr. Quick & Quincy Bullock marked State's Ex. No. 15.)

Q. Mr. Allen, were you at the jail when Dr. Branford came down?

A. I was.

Q. What day was that? Do you know?

A. That was Monday afternoon.

Q. Monday afternoon?

A. Yes, sir.

Q. Was that the day he signed the statements?

A. Well, he signed the statements that morning. I won't be positive whether that was the same day he signed the statements.

Q. Well, regardless of when it was, did you see Dr. Branford at the jail in the defendant's presence?

HARLEY ALLEN

A. Sheriff Rogers and myself and Dr. Branford was talking—Sheriff Rogers and myself was talking to him and Dr. Branford come in.

Sol. Kilgo: Your witness.

Cross Examination

By Mr. Hawkins:

Q. Mr. Allen, the day you are talking about that Dr. Branford came down there was on the day he signed the statements?

A. I won't be sure about that now whether it was the same day or the day before. But the sheriff and myself was talking to him.

Q. What day of the week was it he signed the statements?

A. It was on Monday I am pretty sure.

Q. And what day of the week was it that you took him out to the cemetery where the picture was taken?

A. That was Monday.

Q. The same day he signed the statements?

A. Yes, sir.

Q. He had already signed them when you took him out there? When you took him to the cemetery?

A. He signed the statements and then we taken him out after dinner and went through the—all through the crime. We went to the cemetery; we walked up—

Q. (Interrupting) I just want to know what day you took him out to the cemetery?

A. Well, I am pretty sure it was on Monday.

Q. And it was after he signed all the statements. Is that right?

A. Well, I ain't sure about that, Mr. Hawkins, whether he had signed them all or not.

Q. Had he signed those two?

HARLEY ALLEN

A. Well, he signed one at one time and one later on in the day. 921

Q. Didn't he sign them just about an hour apart?

A. I won't be positive how long it was apart, but it was not too far apart.

Q. It wasn't one one day and one the next?

A. See if both of them ain't dated the 11th.

Q. I am asking you. You are supposed to be a witness to them; you ought to know when they were signed.

A. (Thinking) I would say both of them were signed the same day now; I wouldn't say how— 922

Q. (Interrupting) Was that a Monday or a Friday or when?

A. Well, he give us a statement on Monday following the investigation up from Thursday until Monday.

Q. All right. When did he sign them?

The Court: Hasn't he answered that two or three times?

Mr. Hawkins: If the Court please, I am trying to see whether he actually had signed all the statements when they took him out to the cemetery on that afternoon. 923

Q. Do you remember that, Mr. Allen?

A. I don't think he signed one of them because one of them admits where he shot her and that was late in the evening before he ever admitted that. But it was all in the same day.

Q. So if you went out to the cemetery and then came back and signed another, that took a long time between the—

A. (Interrupting) It was all through the investigation of that day we was writing statements and working with him in cooperation of the investigation. 924

HARLEY ALLEN

925 Q. Now, Mr. Allen, what day did you start talking with Quincy?

A. That was Friday. We was doing some investigation, Mr. Quick and myself and Mr. McKinnon and Mr. Colin King was along with us and when we come into town the sheriff told us he had already locked up Quincy Bullock.

Q. Was that Thursday or Friday?

A. That was Thursday. So we went to questioning—we were still working on some information that we had received—and we went to questioning him on Fri-
926 day.

Q. And the day he told you about the gun was on Friday?

Objection by Sol. Kilgo: Your Honor, this is reply testimony and they are going back into testimony in chief.

Mr. Hawkins: May it please the Court, he testified that he took him out to the cemetery and took that picture of him showing apparently that he was all right—I don't know what they offered it for. But I
927 am trying to ring out when he got the lick he claims he received and line that up with the time when he was supposed to have the picture taken.

Sol. Kilgo: The defendant himself testified that he signed the statements and he just finished saying that they beat him that day.

Mr. Hawkins: And he has introduced the picture to show his condition.

The Court: Ask the question again.

Q. Isn't the day he told you about the pistol on Friday?

928 A. Firday afternoon, yes, sir.

Q. And this picture was taken on a Monday?

HARLEY ALLEN

A. That's right.

929 Q. Afternoon?

A. Well, probably right after noon. We had ate lunch.

Q. And had Dr. Branford seen him at the time the picture was made?

A. Well, Dr. Branford had seen him a few minutes I would say—not a few minutes, the same afternoon because we had brought him back to the jail and the sheriff and myself was down there by ourselves talking to him and Dr. Branford come to the jail.

930 Q. What did Dr. Branford come down there for?

A. Well, Quincy told us when he left her, he shot her and walked off from her. And Dr. Branford come down there just to talk to him about it and explain to him where she was shot at.

Q. Well, did you call him down there?

A. I did not.

Q. Did Quincy call him down there?

A. Not to my knowledge.

Q. Who called him down there?

931 A. Well, I don't know who called him down there.

Q. Well, how did he get the information?

A. You will have to ask somebody else because I really don't know who called him. I know who (does not finish sentence)—

Q. Were you present in the old jail at all times that Quincy was being examined there?

A. Well, I wouldn't say I was there every minute but I was in there practically all the time.

Q. Didn't you and Mr. King come up-town while that was going on?

932 A. Me and who?

Q. You and Mr. King?

HARLEY ALLEN
SHERIFF J. D. ROGERS

933 A. No, sir, I walked over to the new jail and got a Coca-Cola but I didn't come up-town until after we brought him out of the old jail and come back up to the court house with him.

Q. But you were gone from there for a period of time to go and get a Coca-Cola?

A. Yes, sir.

Q. And walk around some.

A. Well, I think each one taken a turn at that as far as that goes.

934 Q. Who come with you?

A. To get the Coca-Cola?

Q. Yes, sir.

A. I don't know as anybody walked from one jail to the other with me. I wouldn't say.

Q. So all except you that were there were there when you left to go get the Coca-Cola?

A. Well, I just walked out and come and got me a Coca-Cola and come on back. At that time, I had a headache and I taken a couple of Anacin and drank a Coco-Cola and went back.

935 Mr. Hawkins: Come down.

(Jury Retires—Recess. Jury—Jury Returns.)

Sheriff J. D. ROGERS, Recalled:

Direct Examination

Q. Sheriff, I hand you State's Exhibit No. 15, a photograph showing Mr. Allen and Quincy Bullock and Mr. Quick. Who took that picture?

A. I did.

936 Q. When did you take it?

A. On Monday morning about eleven o'clock.

SHERIFF J. D. ROGERS
DR. W. V. BRANFORD

Q. Was that the same day these confessions were signed? 937

A. The same day, sir.

Q. Where was it taken?

A. At the Graveyard.

Sol. Kilgo: Your witness.

Mr. Britt: Come down.

Dr. W. V. BRANFORD, recalled:

Direct Examination 938

By Mr. Gasque:

Q. Dr. Branford, did you see Quincy Bullock on Monday, August 11th?

A. I did.

Q. Where did you see him?

A. At the county jail.

Q. And who called you to the county jail, Doctor?

A. The sheriff, Mr. Rogers, called me.

Q. Did Quincy Bullock make a statement to you concerning the shooting? 939

A. The—Mr. Rogers had called me and asked me about some of the—

Objection by Mr. Britt: We submit that is not competent if the Court please.

Q. Did he make a statement concerning the shooting in your presence?

A. He did.

Q. Who else was present beside you?

A. Mr. Allen, Sheriff Rogers and Sheriff Quick.

Q. What statement did he make, Doctor? 940

A. Quincy told me that he had shot—

DR. W. V. BRANFORD

941 Objection by Mr. Britt: If the Court please, we submit this testimony now being offered is supposed to be in reply and the proper foundation hasn't been laid.

Mr. Gasque: All right, sir.

Q. Doctor, did you—

The Court: Wait just a minute. To what is this reply?

Mr. Gasque: Your Honor, the defendant on the stand denied that Dr. Branford was present when he made a statement concerning the shooting.

942 Mr. Britt: If the Court please, he denied that Dr. Branford came down to the jail or rather he admitted that Dr. Branford came down to the jail. That is the only question that was asked him—if he knew that Dr. Branford came down to the jail.

The Court: I can't remember the exact language of the question and the answer and I won't attempt to say before the jury. I will be glad to refer to it and find out.

Mr. Gasque: That is all right, sir. I withdraw the question.

943 Q. Doctor, did you notice anything unusual about his face?

A. I did not.

Mr. Gasque: Your witness.

Mr. Britt: Come down.

By Mr. Gasque:

Q. Did you notice a knot on his face?

A. I did not.

Q. Was either eye closed?

944 A. Not to my knowledge. I did not see either eye closed.

DR. W. V. BRANFORD
JAMES MOODY

Cross Examination

By Mr. Britt:

Q. What time of day did you go down there, Doctor?

A. About five-thirty in the afternoon.

Q. On Monday?

A. Monday, August 11th.

Mr. Britt: Come down.

Mr. JAMES MOODY, sworn to tell the truth, the whole truth and nothing but the truth.

Direct Examination

By Sol. Kilgo:

Q. Mr. Moody, were you present at the search on Sunday when the body of Carolyn Wolshock was found?

A. I was.

Q. Do you know where the body was found?

A. I was there; I saw the body.

Q. Were you along with several of the sheriff's officers and the defendant on Monday the 11th of August when the defendant indicated where the body was left?

A. I was.

Q. Did you approach that spot with the defendant and the officers?

A. Yes, sir, I did.

Q. Who was in front?

A. Quincy Bullock.

Q. Did anyone give?

Objection By Mr. Britt: If the Court please, we submit this is not in reply.

The Court: I hold it is in reply.

JAMES MOODY
DR. BEN F. WYMAN, JR.

949 Q. Did anyone in your presence assist him or make any suggestion to him as to where the body was found?

A. They did not.

Sol. Kilgo: Your witness.

Mr. Britt: Come down.

DR. BEN F. WYMAN, JR., sworn to tell the truth, the whole truth and nothing but the truth.

Direct Examination

950 By Sol. Kilgo:

Q. Doctor, are you employed by the South Carolina State Hospital?

A. Yes, sir.

Q. In the course of your duties and your employment, did you question Quincy Bullock in Columbia between—during the month of August or September?

A. Yes, sir.

Q. Did you question him on a number of occasions?

951 A. On four separate occasions.

Q. On four separate occasions. Is this (indicating the defendant) the man you questioned?

A. Yes, sir.

Sol. Kilgo: Your witness.

Mr. Britt: Come down.

Sol. Kilgo: If the Court please, the State closes.

(Jury retires. Recess. Jury returns.)

The Court: Do you waive polling of the jury?

Mr. Britt: Yes, sir.

Sol. Kilgo: Yes, sir.

962 (During the argument of Mr. Gasque, the following objection was made.)

Objection By Mr. Britt: If the Court please, we submit there is no testimony as to the last statement made by counsel—that he didn't make any confession about the crime until the ballistics report came back.

The Court: I didn't hear all of your statement, sir.

Mr. Britt: That the defendant did not make any admission of having shot this lady until after the ballistics report came back from the State Law Enforcement office. There is no evidence as to that.

The Court: Gentlemen, I cannot remember every word of evidence. The attorneys must stay within the rules. They may argue inferences to be drawn from the testimony.

Mr. Gasque: Your Honor, that is my recollection of the testimony.

Well, if it was before the ballistics report came back or later, what difference does it make? He shot her and he admits it. There is no question about that. (Continues argument.) (Argument by Mr. Hawkins.)

(Jury sent to lunch in custody of Mr. Lacy Hayes and a S. C. Highway Patrolman each of whom was examined by the Court and approved by counsel for the State and counsel for the defendant before they were sworn to keep the jury.)

Saturday, October 25, 1958, 3 o'clock, P. M.

(Jury polled.)

(Argument by Mr. Britt.)

(Argument by Sol. Kilgo.)

(Jury retires. Recess. Jury returns.)

The Court: Do you gentlemen waive polling of the jury?

Mr. Britt: Yes, sir.

Sol. Kilgo: Yes, sir.

CHARGE TO THE JURY

967 Mr. Foreman and gentlemen of the jury, the defendant, Quincy Bullock, is charged in this indictment with having in your county committed the crime of murder. Upon this indictment, he has been arraigned, and upon his arraignment, he pleaded not guilty, and upon his entering that plea, the burden is upon the State to prove him guilty beyond all reasonable doubt before you would be warranted in bringing in a verdict of guilty of any degree.

What is murder? Our law says that murder is the 968 felonious killing of a human being with malice aforethought either expressed or implied. So I imagine you would want to know what is meant by the word, "malice." Our law defines that for us, and it says that malice is a term of art importing wickedness and hatred and a determination to do what one then knows to be wrong and without just cause or excuse or legal provocation. Malice may be defined as the willful, intentional and deliberate doing of a wrongful act without just cause or excuse. It need not be in the mind of 969 the one doing the wrongful act any particular length of time before the act if it is present in the mind any length of time before the act and at the time of the act, accompanying and prompting the act, then its presence would be sufficient. The law does not fix any time in which malice must exist to be recognized in the law. You will notice the terms "malice expressed or implied." These words do not add anything to the legal meaning of the word malice; they, however, relate to the method of proof. In the case of expressed malice, the proof is positive. And in the case of implied malice, 970 the proof is inferential. In a homicide case where the facts and circumstances surrounding the killing are in

evidence, the law raises no presumption of malice against the accused from the mere fact of killing or 961
that a deadly weapon was used, but the State is required to prove the existence of malice by the evidence adduced in the trial beyond a reasonable doubt just as any other material allegation in the indictment.

Now, Mr. Foreman and gentlemen, this defendant says, among his defenses, he says that he was not at the place at the time alleged in the indictment and he pleads among his other defenses here what we in the law recognizes as alibi. So I charge you, Mr. Foreman and gentlemen, this defense of alibi is not an affirmative defense, and a defendant is not required to prove 962
it by the greater weight of the evidence; however, where a defendant sets up the plea of alibi, the State is required to show the presence of the defendant at the time and place alleged in the indictment beyond a reasonable doubt, And if you have a reasonable doubt arising out of the testimony that the defendant was at the place and at the time alleged in the indictment, then you must resolve that doubt in favor of the defendant and not against him.

There are two kinds of evidence, gentlemen; one is 963
direct, and the other is circumstantial. For instance, direct evidence of a fact is the statement of fact made by persons who perceived the existence of the fact by means of their senses as where a person sees a crime committed and comes into court and testifies as to what he saw. Indirect or circumstantial evidence means proof of some other fact or facts from which taken individually or collectively the existence of the particular fact in question may be inferred as a necessary consequence. The law recognizes that each fact or facts 964
or each circumstance relied upon to show guilt must be proven to the satisfaction of the jury beyond a rea-

sonable doubt; and the facts and circumstances, if any, so proven must be so connected and so linked together
965 that they point conclusively to the guilt of the accused and excluding every other reasonable hypothesis. Indeed crime may be proven by circumstantial evidence as well as by direct testimony of eye witnesses, but the facts and circumstances relied on to show guilt must be proven beyond a reasonable doubt and the circumstances should be consistent with each other and with the guilt of the defendant and inconsistent with any reasonable theory of the defendant's innocence and must satisfy the jury of the guilt of the accused be-
966 yond a reasonable doubt, and inconsistent with every other hypothesis except that of guilt. To convict on circumstantial evidence, every circumstance relied on by the State as material must be strictly proved and all facts proved must be consistent with each other and taken together should be of a conclusive nature and tendency producing a reasonable and moral certainty that the accused and no one else committed the offense charged; and it is not sufficient that they create a probability although a strong one.

967 You have heard in this testimony the term "confession" used. I may tell you, gentlemen, that a confession has been defined to be a person's admission or declaration of his agency or participation in a crime and is restricted to such acknowledgment of guilt. Now I instruct you, Mr. Foreman and gentlemen, that if a confession is made and if such confession was made freely and voluntarily and without the remotest fear or duress or without reward or the slightest hope of reward, the jury should consider it as part of the evi-
968 dence so far as the case against the person making such confession is concerned; but unless such confession, if you find that there was one made, was made

freely and voluntarily and without fear or duress of any kind and without reward or the slightest hope of reward, disregard it. On the other hand, if you find it to be freely and voluntarily made and made without reward or the slightest hope of reward and without fear or duress of any kind, you have the right to give it such weight as you deem proper. I also charge you that under the law of this state, that if a confession has been made, before it may be introduced in evidence, it must be shown that the person making such statement has received a copy of such statement. I charge you that where a confession of a person charged with a crime is offered in evidence that the whole of the confession so offered and testified to must be taken together, that part which may be in favor of the accused as well as that part which may be against the accused. And if the part of the statement or confession which is in his favor or in the favor of the defendant is not disproved by other testimony in the case and it is not improbable or untrue considered in connection with all the other testimony in the case, then the statements or such testimony in favor of him are entitled to as much consideration from the jury as are the parts of the statement, if any, that may be against him.

So, gentlemen, all questions of fact are for you. All questions of the veracity of witnesses are for you. Indeed, it is up to you and to you alone as to what and whom you will believe.

Now, Mr. Foreman and gentlemen, every defendant who comes into the courts of our state, no matter how heinous the crime may be, if it be a revolting one even, no matter what the nature of the crime may be, if there be a crime, whoever is charged as a defendant, when he comes into court is presumed to be innocent; and that presumption follows him throughout the trial of his

case and remains with him even when you go into your jury room and remains with him until you are convinced beyond all reasonable doubt that he is guilty. That presumption is a legal one and one to which every defendant is entitled. In fact, I think the defendants in this state of ours, all defendants, occupy a position which should be occupied by all men of other nations; that is, when you and I may be charged with a crime, no matter what the nature of that crime may be, we should have the right and the expectancy to come into a court room in South Carolina where the proceedings are held in a dignified manner, where they are held in a quiet manner, in a calm manner. And so when they come into the courts of our state just as in this court house today, that defendant's case is being tried in an atmosphere of impartiality by an impartial jury, by a judge who tries to act fairly, and is represented by most distinguished and able counsel entirely without pay because it is their duty. And it is my great pleasure to say that I have yet to see a lawyer in South Carolina who is appointed to defend a defendant who has yet failed to do his duty just as the distinguished counsel in this case. And at this time, for fear that I may forget to do so, I wish to convey to them the thanks of the court and the appreciation of their services so well performed up to this time. So then, when this defendant comes into this court, he comes presumed to be innocent; not like in a court of Russia, no; but he comes into the courts of South Carolina presumed to be innocent and upon those conditions he is placed upon trial. The burden is upon the State to prove the defendant guilty and beyond all reasonable doubt by the introduction of competent evidence before a jury is warranted in bringing in a verdict of guilty.

Now you notice, gentlemen, the law does not say beyond all doubt because men may have a doubt about anything; but the law makes reason the test. Now the law says that if the State has proven the defendant guilty beyond all reasonable doubt, it is your duty to convict. If the State has failed to prove the defendant guilty beyond all reasonable doubt, it is your duty to acquit. What the State has done, what the facts are, whom you will believe, what you will believe, are questions for you to decide. The burden rests upon the State to prove the defendant guilty beyond all reasonable doubt. Now what does that mean? The law says a reasonable doubt means a substantial doubt; not an imaginary doubt, not a whimsical doubt, but a doubt for which you can give a reason. It may arise from the testimony which you have heard, or it may arise from the lack of testimony. Now if you have a reasonable doubt as to any part of the case or the whole of the case, it is your duty to give the defendant the benefit of that doubt. But on the other hand, if the State has proved the defendant guilty beyond all reasonable doubt and you so find, it is equally your duty to bring in a verdict of guilty. 977 978 979

The credibility of the witnesses is for you. You have a right to believe all that a witness says, nothing that a witness says, or part that a witness says. You have the right to believe many against one or one against many. What is the truth of this case? What is the truth? Did this defendant kill the deceased with malice aforethought either express or implied? If the State has proven that beyond all reasonable doubt, it is your duty to bring in a verdict of guilty. If the State has failed to do that, it is your duty to bring in a verdict of not guilty. 980

It is your duty, gentlemen, to go by the law as the judge tries to give it to you and the evidence and the
981 testimony which you have heard from the stand. Be very careful not to let yourselves be influenced by anything which you may have heard outside of the court room. But the testimony and the evidence which you are to consider is that which has come from the witnesses who have taken the stand or from documents or other exhibits which may have been admitted into the evidence.

If the defendant is found guilty of murder, the law says that such defendant shall suffer death by electro-
982 cution unless a jury should recommend mercy. A jury may recommend mercy for any reason it deems proper or for no reason at all if you find the defendant guilty of murder. Therefore, gentlemen, your verdict will be one of three: Guilty of murder which would mean death by electrocution; or guilty of murder with recommendation to the mercy of the court which would be imprisonment for life; or not guilty—one of three. If you find the defendant guilty of murder, the form of your verdict would be, "Guilty of murder." Do you un-
983 derstand, Mr. Foreman?

The Foreman: Yes, sir.

The Court: Which would mean death by electrocution. Or you may find the defendant guilty of murder with recommendation to the mercy of the court which would be imprisonment for the balance of his natural life. Or you may find the defendant not guilty. Do you understand those three forms, sir?

The Foreman: Yes, sir.

The Court: Of course, Mr. Foreman and gentlemen, you understand that the court has nothing to do with
984 any verdict you may see fit to bring in. The court is only trying to define to you the kinds of verdict you

may consider and the kinds of verdict which you may bring in. Do you understand?

The Foreman: Yes, sir.

The Court: Now you may take with you into your room any and all exhibits which have been put in evidence.

Lastly, Mr. Foreman, I may tell you that you are not volunteers for jury duty. You have been drawn from the registration list and you have been called by due process of law into the court room; you have been passed upon both by the State and by the defendant, and you have taken an oath to go by the law and the evidence; to do otherwise would be a violation of your oath. So when you return a verdict based upon the law and the evidence, you will have complied with your oath and certainly you have no enemies to punish nor do you have any friends to reward. Let your verdict speak the truth whatever it may be.

I have explained the forms of verdict. Whatever your verdict is write in on the back of this indictment and sign your name as foreman. And how many may I ask, Mr. Foreman, of you have to agree before any kind of verdict can be brought in?

The Foreman: All twelve.

The Court: All twelve. Do not go upstairs. If you will go just inside the door, I will call you back.

(Jury retires 4:50 P. M.)

The Court: Is there anything further from the State?

Sol. Kilgo: Nothing, your Honor.

I would like for the record to show that the two exhibits are in envelopes that Mr. Britt formerly objected to; he says now he has no objection to them remaining in envelopes. (Referring to Exhibits No. 7 and No. 8.)

The Court: Anything further from the defense?

989 Mr. Britt: Nothing, your Honor.

The Court: May I again thank you gentlemen for your wonderful service.

(To bailiff) Ask the foreman to come to the door a minute, please.

(Foreman comes to door.)

The Court: Mr. Foreman, you may now begin your consideration.

(Jury retires 4:52 P. M.)

Sol. Kilgo: If the Court please, I would like on behalf of all law enforcement officers that participated

990 in this case to thank Mr. Britt and Mr. Hawkins for their services in this case.

The Court: Yes, sir.

(Recess.)

(5:56 P. M. the foreman of the jury comes to the door and the jury is brought out.)

Clerk of Court: Mr. Foreman, have you agreed on a verdict?

The Foreman: No, sir.

The Court: Is there something you want to ask me,

991 sir?

The Foreman: Yes, sir.

The Court: Is it a question of law or a question of fact?

The Foreman: Well, that's what we want to find out.

The Court: All right, sir. You ask the question and I will tell you whether—

(To counsel) Do you waive the calling of the jury?

Mr. Bruitt: Yes, sir.

Sol. Kilgo: Yes, sir.

992 The Court: You ask me and I will see if I can answer you.

The Foreman: Well, the question came up as to if the jury would recommend mercy, does the Court carry a penalty that he should ever have a parole, that he should serve for life in prison.

The Court: All that I can tell you, sir, is that if a jury recommends mercy, the judge under the law sentences a defendant to imprisonment for the balance of his natural life; that is as far as a judge can go.

The Foreman: Then we would have no way of knowing whether he would ever be paroled or not. That is something that came up.

The Court: Now whether he would ever be paroled or not, of course, I have no way of telling you what would happen in the future because that is not in the judge's hands.

The Foreman: Well, that is the information.

The Court: Now what was your question?

The Foreman: The question was if we recommended mercy, would he ever be able to be paroled or would he serve the rest of his life?

The Court: Go back into your room a minute.

(Jury retires.)

The Court: Now I would like to tell the attorneys for the defense and for the State. Of course, you know what the law is generally—if a person is sentenced for life—

(To sheriff) Unless they can keep quiet back there, Sheriff, clear the court house.

(Continues) A person is eligible for parole on a life sentence, of course, after he has served a certain number of years. That is the law. But I was just worrying about this. Suppose I should tell the jury that and there was somebody on the jury who would say, "Well, I want to do so and so since I have heard that." I fear to charge anything which might be detrimental to the

defendant, so I will not answer that question unless the defendant wants me to.

997 Mr. Britt: We do not want any such charge if the Court please.

(Jury returns.)

The Court: Mr. Foreman, since you have asked me the question, I prefer just to tell you as I did before. If you find the defendant guilty straight out, or guilty of murder with recommendation to the mercy of the court, or not guilty is a question which you will have to determine. What may happen in the future, of course, is no concern of yours and neither can I tell you 998 anything further except what the law says, what verdicts you may bring in, that's all I can tell you.

(Jury retires 6:04 P. M.)

(7:15 P. M. The Foreman was called into chambers and told to inquire if the jury would like supper. Word was sent back to the Court through the bailiff that they did not want anything at that time, but they might want sandwiches sent in a little later.)

(Jury knocks 8:40 P. M. Brought out 8:55 P. M. Jury polled.)

999 Clerk of Court: Mr. Foreman, have you agreed on a verdict?

The Foreman: We have.

The Court: Let the defendant stand.

Clerk of Court: (Reading) "State of South Carolina, County of Dillon, the State against Quincy Bullock, indictment for murder. Signed J. L. Hubbard, Foreman."

The Court: Gentlemen, will you please rise. (Jury stands) After I have asked you the question and you 1000 have answered it, will you please take your seat. (Each juror answered in the affirmative the question put to

him by the Court: "Is this your verdict and do you still assent to the same?")

1001 The Court: Very well. Any motions?

Motion New Trial—Mr. Britt: If the Court please, we move for a new trial on the same grounds as stated as the bases for all our objections throughout the trial and on the grounds as stated in our preliminary motions.

The Court: Well, I have reviewed, of course, as every judge does in a case of this kind, he is reviewing the case from the moment he starts trying it until the end of it to try to see that every safety is thrown around the defendant; and I do not see any reason or 1002 any grounds for granting a new trial and the motion is overruled.

Let the defendant come around.

Quincy Bullock, you have been convicted by the jury, and it now becomes my duty to ask you if you have anything further to say as to why the judgment of the law and the sentence of the court should not be now pronounced. Do you have anything to say?

The Defendant: Sir?

The Court: Do you have anything to say? 1003

The Defendant: No, I reckon not.

The Court: Well, you have been convicted of murder by twelve jurors who heard all the testimony and I hardly see how any other verdict could have been reached. If you have anything to say now, I will be glad for you to say it.

The Defendant: The lawyer er, er, er, say something about having a new trial.

The Court: Yes, they have made a motion for a new trial and the judge had to refuse to give you a new 1004 trial. Now is there anything else you want to say?

The Defendant: No, sir, I reckon not.

The Court: If you do, the judge will be glad to hear from you.

1005 The Defendant: Well, er, er, er, I be glad it y'all have mercy on me.

The Court: Would you mind telling me why you killed the woman?

The Defendant: Sir?

The Court: Would you mind telling me why you killed her?

The Defendant: Well, er (shaking head), I didn't kill her.

The Court: All right. Anything else you want to

1018 say?

The Defendant: Er, er, I be glad y'all have mercy on me. I appreciate it. Thank you.

The Court: Anything else?

The Defendant: No, sir, I reckon not.

The Court: Very well. The defendant, Quincy Bullock having been charged with murder and having pleaded thereto and putting himself for trial upon God and his country and having gone to trial, the jury charged with the trial of his case having returned a

1007 verdict of guilty of said charge of murder and the said Quincy Bullock having been arraigned for sentence and it having been demanded of him whether he had anything to say more than he had already said or had already been said in his behalf and the said defendant having answered nothing further thereto, now it is the judgment and sentence of this court that you, the said Quincy Bullock, be carried thence to the place whence last you came and there to be kept in close and safe custody until you shall be removed therefrom in accordance with the law to the State Penitentiary at

1008 Columbia, South Carolina at which place on the twenty-eighth day of November, 1958, at the place there

provided within the said penitentiary between the hours of the day as designated by proper authority 1009
the said Quincy Bullock shall suffer death by electrocution in the way and in the manner provided by law, and may the God of love and mercy and peace have mercy on your soul.

Take charge of the defendant, Sheriff.

NOTICE OF INTENTION TO APPEAL

To Honorable Robert L. Kilgo, Solicitor of the Fourth Judicial Circuit:

You Will Please Take Notice: That the defendant in- 1010
tends to, and does hereby, appeal to the Supreme Court of South Carolina from the rulings, decisions, judgment and order of the Court and the verdict of the jury on a trial held in the General Sessions Court for Dillon County, South Carolina, which concluded on October 25th, 1958.

/s/ W. B. Hawkins,
/s/ Herbert Britt,
Attorneys for the Defendant. 1011

Due and legal service of the foregoing Notice is accepted, and copy retained, this the .... day of November, 1958.

/s/ Robert Kilgo,
Solicitor.

1012

STATE'S EXHIBIT NO. 9

Dillon, South Carolina
11 August, 1958.

I, Quincy Bullock, do hereby give the facts relating to the death of Carolyn Barfield Wolshock of my own free will and accord and not through duress, threat or promises of any kind.

On the 3rd day of August, 1958, at approximately 1:00 A. M. in the morning I went to the Mount Holly Cemetery on the old Latta Highway about a half a mile from Dillon. I went into the cemetery through the main gate and took the first road to the left. I went on around the circle and I saw a car parked. I walked on a piece farther and I pulled out my mess and started shooting. When I started shooting I saw two people running and I heard this girl calling to the boy to wait. They were running toward the main gate. I cut across the cemetery toward the old Latta Highway and crossed the ditch and come out on the highway and started walking toward Latta. On the right-hand side of the road to my right this woman was standing there and she said come here. She said come go with me. At this time, I noticed that she was bleeding from the chin. We went up the sewage line on the right of the old Latta Highway across from the main gate of the cemetery. We followed this route as far as we could and then went through the swamp to the edge of the cornfield. She went under the edge of some vines near the edge of the cornfield and sat down. She sat in this position for some time. I was standing behind her to her right rear. It was getting daylight about this time. She sat in this position for about an hour. All this time I was standing by her. She said nothing to me and I said nothing to her. I was standing about two

feet from her when I took the gun out of my pocket and fired one time into her head. I left her there and I come out of the woods across a cotton patch and hit an old road. I come down the old road a piece and turned and come across a cotton field through a small streak of woods and from there I crossed a field and hit an old road. I followed the old road out through some tobacco barns and stalls and a house on Highway No. 34. I walked down the highway to Mr. Cecil Tyler's Pee Dee Trading Post. I bought a pepsi-cola and asked a white boy would he call a taxi for me. I didn't tell him to call. I started towards town walking and met the taxi. He took me home to change clothes and waited on me and then he took me to the P.D.Q. where I work as a dishwasher and keep the place clean. When I got there I was late and Dan had got Jesse to work in my place. I don't know Jesse's last name. I paid Mr. Exhibits No. 9 and No. 10, purporting to be written confessions by the Defendant, the errors being as follows:

This statement has been made in the presence of Sheriff Jasper D. Rogers, and Deputies Harley Allen and W. B. Anderson. The facts as above related has been read to me and I find them to be true and correct to the best of my knowledge, and I have received a copy of the statement.

/s/ Quincy Bullock.

Witnesses:

/s/ H. A. Allen,
/s/ W. B. Anderson,
/s/ Jasper D. Rogers.

STATE'S EXHIBIT NO. 10

1021 Dillon, South Carolina,
11 August, 1958.

On the 11 August, 1958, I accompanied the investigating officers, Sheriff Jasper D. Rogers, Harley Allen and Arthur Quick to reconstruct the crime from the shooting in the graveyard until I finally killed her. I showed Mr. Rogers the place to put the car in the graveyard where it was parked. I showed him how the back doors was open and ho wthe two were laying in the back seat with their heads pointing in my direc-
1022 tion. I showed him the position I was standing when I fired into the car. I showed the three officers the route I took up the sewage line. We then went by car to the far side of the swamp. At this point Sheriff Rogers asked me to locate the place where I had left the body. I led the three officers into the swamp for about twenty yards and in about five minutes I pointed out the spot. I also placed Mr. Allen in the position that the girl was sitting in when I shot her in the head. I led Mr. Allen and Mr. Quick back out of the swamp through
1023 the edge of the corn field and through the cotton field up an old farm road back of a brick house where I went to Mr. Cecil Tyler's to buy the pepsi-cola and make the phone call.

These facts were made in the presence of Sheriff Jasper D. Rogers, Deputies Arthur Quick and Harley Allen. These facts are true to the best of my knowledge. The facts as above related was read to me by Mr. Rogers. I have received a copy of this statement.

Witnesses: /s/ QUINCY BULLOCK.

1024 /s/ JASPER D. ROGERS,
/s/ H. A. ALLEN.

EXCEPTIONS

1. The Court erred in refusing to grant a continuance in accordance with Defendant's motion for same, made when said case was called for trial, it having been clearly shown that defense counsel did not have ample opportunity to prepare for trial.

2. The Court erred in receiving as evidence State's Exhibits No. 9 and No. 10, purporting to be written confessions by the Defendant, the errors being as follows:

(a) It was clearly shown that said statements were obtained under duress and force and the use of them as evidence violated Defendant's right to due process of law as required by the United States Constitution and the Constitution of the State of South Carolina.

(b) It was clearly shown that Officers taking the written statements did not comply with the provisions of Sections 1-64, 26-7.1 and 26-7.2, Code of Laws of South Carolina for 1952 and the use of them as evidence violated Defendant's rights under the United States Constitution and the Constitution of the State of South Carolina.

3. The Court erred in receiving as evidence State's Exhibits No. 7 and 8, the slip and dress of the deceased, in that said items were not relevant to the issue of murder and could only be calculated to inflame the jury, thus resulting in great prejudice to the Defendant.

4. The Court erred in receiving as evidence State's Exhibit No. 13, purporting to be a bullet removed from one Jimmy Horne, the error being as follows:

(a) State's Exhibit No. 13 was not relevant to the trial of the instant case and its use as evidence was prejudicial to the Defendant.

(b) State's Exhibit No. 13 was not properly identified, said identification being based upon hearsay evi- 1029
dence and its use as evidence in this case was prejudicial to the Defendant.

5. The Court erred in receiving as evidence testimony of Dr. Branford referring to that part of the body of deceased commonly known as the vagina and describing the contents of same, said testimony being irrelevant to the trial of the instant case and was calculated to inflame the jury, thus resulting in great prejudice to the Defendant.

6. The Court erred in receiving any evidence what- 1030
soever concerning the commission of a crime against Horne, such evidence being irrelevant to the trial of the instant case and resulted in prejudice to the Defendant.

7. The Court erred in receiving as evidence testimony indicating that when deceased was found she was not clothed in undergarments, such testimony being irrelevant to the trial of the instant case and was calculated to inflame the jury, thus resulting in great prejudice to the Defendant.

8. The Court erred in receiving as evidence State's 1031
Exhibit No. 6, the pocketbook and contents thereof allegedly carried by the deceased, such evidence having no probative value and was prejudicial to the Defendant.

9. The Court erred in refusing to grant Defendant's motion for new trial, made upon the announcement of the verdict herein.

STIPULATION

It is hereby stipulated and agreed by and between 1032
counsel for the appellant and respondent that the foregoing, when printed, shall constitute the Transcript of

Record herein for the purpose of this appeal, and that printed copies thereof may be filed with the Clerk of the Supreme Court and shall constitute the Return herein.

MATTHEW J. PERRY,
LINCOLN C. JENKINS, JR.,
DONALD JAMES SAMPSON,
Attorneys for Appellant.

ROBERT L. KILGO,
Solicitor,
S. NORWOOD GASQUE,
Attorneys for Respondent.

NOTICE

To Hon. Robert L. Kilgo, Solicitor for the Fourth Judicial Circuit:

Please Take Notice that the undersigned attorneys for the appellant propose the foregoing pages, which when printed and filed with the Clerk of the Supreme Court, shall constitute the Transcript of Record in this cause.

MATTHEW J. PERRY,
LINCOLN C. JENKINS, JR.,
DONALD JAMES SAMPSON,
Attorneys for Appellant.

Due and legal service of the foregoing Notice and proposed Transcript of Record admitted this 4th day of May, 1959, and copy retained.

ROBERT L. KILGO,
Solicitor.

261 IN THE SUPREME COURT OF THE STATE OF SOUTH CAROLINA

THE STATE, RESPONDENT

v.

QUINCY BULLOCK, APPELLANT

Appeal From Dillon County, T. B. Greneker, Judge

Case No. 4485

AFFIRMED

MATTHEW J. PERRY, of Spartanburg, LINCOLN C. JENKINS, JR., of Columbia, and DONALD J. SAMPSON, of Greenville, for appellant.

Solicitor ROBERT L. KILGO, of Darlington, S. NORWOOD GASQUE, of Latta, and WILLIAM H. SMITH, JR., Assistant Attorney General, of Columbia, for respondent.

Opinion No. 17585

Filed November 16, 1959

Moss, A. J.: The appellant, Quincy Bullock, was tried upon an indictment charging him with the murder of Mrs. Carolyn Barfield Walshock on August 3, 1958. He was tried on October 24, 1958. The appellant was found guilty as charged and sentenced to death by electrocution.

This appeal followed. The appellant charges error on the part of the trial Judge: (1) In refusing his motion for a continuance; (2) in allowing the introduction into evidence of the alleged confessions of the appellant, it being asserted that the said confessions were obtained in violation of the rights of the appellant under the due process clause of the Fourteenth

Amendment of the United States Constitution; and that the officers who took the written confession failed to comply with Sections 1–64 and 26–7.1 of the 1952 Code of Laws of South Carolina; (3) in admitting into evidence the slip, dress, pocket book and contents, of the deceased; (4) in admitting as evidence a bullet taken from the body of one Jimmy Horne and allowing testimony concerning the commission of a crime against the said Horne; and (5) in permitting evidence that when the body of the deceased was found it was without undergarments, and in allowing testimony of the physician who examined the body of the deceased that there was some discharge from her vagina.

Upon the call of this case for trial, the appellant moved for a continuance beyond the term upon the ground that his counsel had not had sufficient time in which to prepare for trial. This motion was refused and the appellant alleges error. The body of the deceased was discovered on the afternoon of August 3, 1958, in the woods near Maple Swamp, a distance of approximately ¾ of a mile from the Latta Highway in Dillon County, South Carolina. The appellant was arrested on August 7, 1958. The State asserts that the appellant did, on August 11, 1958, give to the investigating officers two written statements wherein he confessed that he had killed the deceased, and he gave in the statements the details of how he took the life of the deceased.

It appears from the record that on August 26, 1958, the Honorable J. Woodrow Lewis, Resident Judge of the Fourth Circuit, did issue an order committing the appellant to the South Carolina State Hospital for observation and examination as to his sanity. It further appears that as a result of such examination, at the end of the thirty days, the appellant was found sane, and a report to that effect filed in the office of the Clerk of Court for Dillon County, on September 30, 1958. It also appears from the record that on August, 26, 1958, that Honorable J. Woodrow Lewis, Resident Judge of the Fourth Circuit, did appoint two able and competent attorneys of Dillon to represent the appellant. These attorneys received written notification from Judge Lewis, in the form of a letter, on August 28, 1958, appointing them to represent the appellant.

Counsel for the appellant had notice of the findings of the South Carolina Hospital as to the sanity of the appellant on either October 4 or 5, 1958. It appears that after the
262 completion of the examination of the appellant at the State Hospital he was held as a prisoner in the State Penitentiary. On October 7, 1958, counsel for the appellant, by letter, requested the Solicitor to have "the Sheriff of Dillon County bring the defendant back to the Dillon County jail several days prior to the convening of the General Sessions Court." In the same letter these attorneys requested a copy of the alleged confessions made by the appellant. On the day following, the Solicitor directed the Sheriff to bring the appellant back to the Dillon County jail so that his attorneys would have full opportunity to confer with him and prepare his defense. The Solicitor also directed the Sheriff "to make available to them all statements, confessions, and evidence in our hands." There is no contention on the part of the appellant that he was not returned to the Dillon County jail in sufficient time to confer with his counsel, nor is it claimed that the State failed to furnish to his counsel a copy of all statements, confessions, and evidence in the hands of the officers. Counsel for the appellant stated in their joint affidavit that they found the appellant to be highly suspicious of them and reluctant to talk to them. They state that he desired other attorneys to represent him but such attorneys were unavailable. This same affidavit shows that on October 16, 1958, that the appellant gave to his attorneys information which repudiated the alleged confessions made by him and asserted that "he was nowhere near the scene of the alleged crime at the time it was alleged to have been committed." Attorneys for the appellant assert that the case should have been continued because they had not had sufficient time to adequately prepare the defense of the appellant.

The appellant's defense was one of alibi. He made no showing on the motion for continuance of the absence of any witness who would be material to the establishment of this defense. As a matter of fact, the appellant testified upon the trial of the case that on the night of the homicide that he was alone from about midnight until approximately six o'clock the following morning. We do not see how it is possible, if the

appellant was alone during this period of time, for him to obtain witnesses to corroborate this fact.

The appellant also suggests that the witness, Jimmy Horne, should have been present for the trial of this case. Examination of the record reveals that Jimmy Horne was with the deceased on the night of the homicide. He was not present at the time of the trial for the reason that he was a patient in a hospital suffering from injuries in an automobile accident. It is the State's position that this witness could not be considered a defense witness because his full testimony was given at a coroner's inquest, which, from an examination thereof, shows that he could not in any sense be a witness for the appellant. The appellant does not contend that he wished to call Jimmy Horne as a witness in his behalf nor that he had made any attempt to interview such witness.

It appears to us that since counsel for the appellant had been appointed to defend him on August 26, 1958, and received notice thereof on August 28, 1958, and that the appellant was made available to them certainly prior to October 16, 1958, and there being no contention that they were not furnished with all statements, confessions and evidence in the hands of the State concerning this homicide, they had had ample time to prepare this case for trial. The appellant does not suggest the absence of any witness material to his defense.

This Court has held in numerous cases that a motion for a continuance is addressed to the discretion of the trial Judge and his disposition of such motion will not be reversed on appeal unless it is shown that there was an abuse of discretion to the prejudice of the appellant. State v. Lytchfield, 230 S. C. 405, 95 S.E. (2d) 857; State v. Livingston, 223 S.C. 1, 73 S.E. (2d) 850; State v. Mishoe, 198 S.C. 215, 17 S.E. (2d) 142; and State v. Livingston, 233 S.C. 400, 105 S.E. (2d) 73. We quote from the last cited case, the following:

"A motion for continuance is, of course, addressed to the sound discretion of the court. Where such motion has been based upon the contention that defendant's counsel has not had time to prepare his case, its denial by the trial court has rarely been disturbed on appeal. It is axiomatic that determination of such motions must depend upon the particular

facts and circumstances of each case. In State v. Middleton, 207 S.C. 478, [illegible] S.E. (2d) 742, where counsel, appointed
263 by the court at least eight days prior to the trial, moved for continuance upon the ground that they did not think that time sufficient for preparation of the case for trial, we held that the motion was properly denied. And in State v. Livingston, 223 S.C. 1, 73 S.E. (2d) 850, 853, denial of a like motion was upheld where counsel for the defendant had been appointed by the court 'three or four' days prior to the date of trial."

The appellant asserts that under the Livingston case, from which we have quoted, that he was entitled to a continuance. An examination of this case shows that we expressed grave doubt as to whether the trial Judge abused his discretion in denying the motion for a continuance. However, we concluded, *in favorem vitae*, where the motion for a continuance was on the ground that there was a man residing in Colorado who could testify as to defendant's mental condition during combat service in the Korean War, a new trial should be granted. There is no showing in the instant case of the absence of any witness material to the appellant's defense. We conclude that there was no error on the part of the trial Judge in refusing the motion of the appellant for a continuance.

We next consider the question of whether there was error in permitting the introduction into evidence of the alleged confessions of the appellant.

In the case of State v. Chasteen, 228 S.C. 88, 88 S.E. (2d) 880, it was said:

"The question of whether a confession is voluntary is one which is addressed to the Court in the first instance. If there is an issue of fact as to the voluntariness of a confession, it should be admitted and the jury, under proper instructions, allowed to make the ultimate determination as to its voluntary character and also its truthfulness. State v. Scott, supra, 209 S.C. 61, 38 S.E. (2d) 902; State v. Brown, supra, 212 S.C. 237, 47 S.E. (2d) 521; State v. Livingston, supra, 223 S.C. 1, 73 S.E. (2d) 850."

It is axiomatic that a confession is not admissible unless it is voluntary. It necessarily follows that the burden rests upon

the State to show that it was voluntary, and there is no presumption of law that it was voluntary. State v. Clinkscales, 231 S.C. 650, 99 S.E. (2d) 663, and State v. Fuller, 227 S.C. 138, 87 S.E. (2d) 287.

We have also held that the mere fact that a confession is made while the accused is in the custody of an officer does not render it inadmissible. However, the conduct of the officer obtaining the confession will be rigidly scrutinized and the fact that it is made while the accused is under arrest is a circumstance, along with the other facts and circumstances to be taken into consideration by the jury by determining its voluntariness. State v. Clinkscales, supra.

In the case of McNabb v. United States, 318 U.S. 332, 63 S. Ct. 608, 87 L. Ed. 819, it is stated:

"In deciding the question of fact whether such a confession is free from threat or inducement, the conduct of the officer will be rigidly scrutinized, but the conclusion of the circuit Judge on that issue of fact cannot be reviewed by this court unless so manifestly erroneous as to show an abuse of judicial discretion." See State v. Henderson, 74 S.C. 477, 55 S.E. 117, also, State v. Miller, 211 S.C. 306, 45 S.E. (2d) 23, and State v. Livingston, 223 S.C. 1, 73 S.E. (2d) 850.

When the State offered the confessions of the appellant in evidence a prompt objection was made to such admission by counsel for him. The trial Judge then excused the jury, and in the absence thereof, heard the testimony of the officers concerning the circumstances of the confessions. These officers testified positively that the appellant was not at any time intimidated, abused or threatened. They further testified that his confessions were freely and voluntarily given.

264 The record shows that when the question of admissibility of the confessions arose, and after the jury had been excused, the Sheriff of Dillon County was examined by the Court as a witness. We quote from the record the questions asked by the Court and the answers given by the Sheriff:

"Q. Let me ask you this. If any statement was made to you by the defendant, was any force used in getting him to make a statement?

"A. No, sir.

"Q. Was any promise made——

"A. No, sir.

"Q. (Continues) to him?

"Q. By you or anyone in your presence?

"A. No, sir.

"Q. Was any hope held out to him if he would make a statement?

"A. No, sir.

"Q. Was he put under any threat? Was any threat made to him?

"A. No, sir.

"Q. Was there any act of violence committed toward him by you or anyone in your presence?

"A. No, sir.

"Q. Was any promise made to him?

"A. None, sir.

"Q. That if he would tell you, certain things may be done for him?

"A. No, sir.

"Q. Was any threat made against him at any time?

"A. No, sir.

"Q. Did any officer or any other person have his hands about the defendant or try to force the defendant or put fear in the defendant at any time or in your presence?

"A. No, sir.

"Q. If he did make a statement, was it free and voluntary?

"A. It was, sir."

After the Sheriff had been examined by the trial Judge he was extensively cross examined by counsel for the appellant. The testimony of the Sheriff was corroborated by a deputy Sheriff who typed the confessions of the appellant. It should be pointed out that while the trial Judge was making the preliminary examination as to whether or not the confessions were admissible as evidence the appellant was not called to the stand to refute or deny the testimony of the Sheriff and the deputy as to the voluntariness of the confessions, nor did the appellant call any other witness to testify thereabout. The record reveals that prior to the time the trial Judge admitted the confessions into evidence, that he charged the

jury that it was their duty and responsibility to determine if the confessions had been made by the appellant, and if found to have been made freely and voluntarily, without fear or reward, or hope of reward, or the slightest fear or slightest hope of reward, or without duress, then the jury should give to them such weight as they deem proper. He also charged the jury that if they found that the statements had been involuntarily made, that they should not consider them. With this charge and admonition to the jury, the trial Judge admitted the confessions into evidence. We find no error in so doing.

In the case of State v. Sanders, 227 S.C. 287, 87 S.E. (2d) 826, the defendant was indicted for murder. An objection was made to the admission of a confession on the ground that the same was involuntary. The accused testified that he was cursed and threatened by one of the officers, which was denied by that officer, and his denial was corroborated by other officers, and by the stenographer who took the confession in shorthand and transcribed the same. The notes were produced at the trial, as well as the signed transcript which was admitted in evidence. The trial Judge, in the absence of the jury, heard the testimony of the appellant and one of the officers concerning the circumstances of the confession, and concluded that it was admissible. Upon appeal to this Court, it was said:

"In the absence of the jury the court first heard the testimony of appellant and one of the officers concerning the circumstances of the confession and concluded that it was admissible; however, he submitted to the jury the issue of whether it was free and voluntary and, therefore, whether it should be considered or rejected by them. This
265 was the proper procedure and there was no error thereabout. State v. Carson, 131 S.C. 42, 126 S.E. 757; State v. Scott, 209 S.C. 61, 38 S.E. (2d) 902; State v. Miller, 211 S.C. 306, 45 S.E. (2d) 23; State v. Brown, 212 S.C. 237, 47 S.E. (2d) 521, certiorari denied 335 U.S. 834, 69 S. Ct. 22, 93 L. Ed. 386; State v. Livingston, 223 S.C. 1, 73 S.E. (2d) 850, certiorari denied 345 U.S. 959, 73 S. Ct. 944, 97 L. Ed. 1379; State v. Waitus, 224 S.C. 12, 77 S.E. (2d) 256; Id.,

S.C. 83 S.E. (2d) 629, certiorari denied 348 U.S. 951, 75 S. Ct. 439."

It appears from the record that at the time the State offered the confessions of the appellant in evidence, the sole testimony before the trial Judge was that such confessions had been voluntarily made by the appellant. There was no testimony to the contrary. The procedure outlined in the case of State v. Sanders, supra, had been followed, except the appellant had not availed himself, nor was he required to do so, of the opportunity through his own testimony, or that of other witnesses, to contradict the prima facie showing made by the State as to the voluntariness of the confessions. The issue of the voluntariness of the confessions was made when the appellant took the stand during the presentation of his defense, to deny that he had freely and voluntarily made the confessions.

The appellant asserts that the admission into evidence of his alleged confessions violated his right to due process under the Fourteenth Amendment to the Constitution of the United States.

As is heretofore stated, the dead body of Mrs. Carolyn Barfield Walshock was discovered on August 3, 1958. The appellant, a negro man, forty-six years of age, an employee of a restaurant, was arrested at his home on August 7, 1958. He was not questioned on the date of his arrest. However, on Friday morning, August 8, 1958, according to the testimony of the State, the appellant was questioned for a few minutes. The testimony was that on Friday afternoon at about 2:30 or 3:00 o'clock, the officers questioned the appellant, removing him for such purpose from the new jail to the old jail of the county. He was questioned for about thirty to forty minutes. It appears that a number of people had gathered near the old jail and the officers took the appellant to the office of the Judge in the Courthouse, interrogating him there for about an hour to an hour and fifteen minutes. The appellant admitted the ownership of a pistol after he had been told that the officers knew that he had purchased a pisfol from one Rowell. The record shows that Rowell testified on the trial of this case that he sold to the appellant the pistol in question. It further appears that a sister-in-law of the appellant was called in while

the appellant was being questioned in the office of the Judge and told the appellant about seeing him with a pistol. It appears that after this happening the officers went with the appellant to his home and there the officers obtained the pistol from behind a loose piece of ceiling in the wall between the ceiling and the weather boarding under the window in the appellant's bedroom. It appears that the appellant had not admitted the shooting of the deceased at this time. At the end of the interrogation in the Judge's office, the appellant was removed from the Dillon County jail to the jail of adjoining Marion County. On the way from Dillon to Marion the car in which the appellant was riding was momentarily stopped at a motel to pick up one of the investigating officers. Upon arrival at the Marion County jail yard the appellant made an oral confession. The Sheriff testified that he went back to the Marion County jail on Saturday and Sunday and talked to the appellant. It appears from the testimony that on Sunday night, August 10, 1958, the Sheriff with one of his deputies brought the appellant back from Marion to Dillon, and that they stopped by the cemetery where the alleged shooting took place and he pointed out the road that he traveled in approaching the car in which the parties were at the time of the shooting. It appears that on August 11, 1958, that the appellant signed his first confession, wherein he stated that at about 1:00 o'clock A.M., on the morning of August 3, 1958, he went to the Mount Holly cemetery on the old Latta highway, entering through the main gate and took the first road to the left around the circle to where a car was parked. He says that when he got to the car "I pulled out my mess (pistol) and started shooting." Two people ran from the car and the girl called to the boy to wait. The appellant says that he cut across the cemetery towards the old Latta highway and came out on the highway and started walking towards Latta when he came upon a woman standing there. He says that she called him to come and go with her. He says that at this time she was bleeding from the chin. He went up with her on the sewage line on the right of the old Latta highway and through the
266 swamp to the edge of a cornfield. The woman went under the edge of some vines near the cornfield and sat

down, where she remained for about an hour. He says that he was standing behind her to the right. He also says that about daylight, when he was about two feet from her, he took the gun out of his pocket and fired one time into her head; that he left her there and came out of the woods across a cotton patch and hit the old road. He details how he traveled to a store where he bought a pepsi-cola and asked a white boy to call a taxi; that he met the taxi as he was walking towards town; that the taxi driver took him home to change his clothes and waited so that he could take him to his place of work. When he arrived at work he found that he was late and his employer had obtained someone to take his place. He returned home and stayed there the rest of the day. This confession was executed in the presence of Sheriff Jasper D. Rogers and Deputy Sheriffs Allen and Anderson.

It appears that after the appellant had signed the foregoing confession that he accompanied the officers for the purpose of reconstructing the crime. After he had returned from this trip he signed a second statement, wherein he says that he instructed the Sheriff the place to put the car in the cemetery. He says that he showed how the back doors to the car were open and how the two were lying in the back seat with their heads pointing in the same direction. He also stated what position he was standing in when he fired into the car and pointed out the route that he took up the sewage line. He was then taken to the point where the body was found and in about five minutes pointed out the spot where he left the body. He says that he placed Deputy Allen in the position the girl was sitting when he shot her in the head, and that he then led the officers back out of the swamp through the edge of the field along the route that he took when he left the place where the body of the deceased was found. This confession was executed in the presence of Sheriff Jasper D. Rogers and Deputy Sheriff H. A. Allen.

Each of the foregoing statements acknowledged that they had been read to him by "Mr. Rogers," the Sheriff, and that he had received a copy of such statement.

The testimony of the officers is that after the statements, or confessions, were written out that they were read slowly to the

appellant, and that he agreed to the correctness of such statements and signed same. It was also testified that he was given a copy of the statements so signed.

The appellant testified that he signed the confessions after two cotton sheets had been placed over his head and he had suffered a severe beating, and had been kicked by the officers. He says that as a result of the beating he was crippled in his hip. There was also testimony by the wife of the appellant that the appellant had been beaten and because thereof "he couldn't half walk" and his face was swollen to the extent that his left eye was almost closed. The appellant asserts that he put his name on the confessions because he was fearful of what might happen to him if he didn't. He says that when he was taken to the cemetery and to the place where the body of the deceased was found that "I point out anywhere" "so they wouldn't get a hold of me no more." The appellant also denied receiving copies of the statements which he signed. This testimony in behalf of the appellant, as to the treatment he had received prior to the signing of the confessions, was emphatically denied by the officers. It was also testified in behalf of the State that the appellant, without assistance from anyone, pointed out the spot where he left the body of the deceased near the swamp.

The evidence relating to the voluntariness of the confessions of the appellant is in sharp conflict. The officers testified that the confessions were freely and voluntarily given. The appellant's testimony is that the confessions were involuntary. Under the testimony we think the trial Judge properly submitted the issue of voluntariness of the confessions to the jury. State v. Waitus, 224 S.C. 12, 77 S.E. (2d) 256. Neither can it be said that the circumstances under which the confessions were obtained violate those fundamental principles which are protected by the Fourteenth Amendment to the Constitution of the United States. Gallegos v. Nebraska, 342 U.S. 55, 72 S. Ct. 141, 96 L. Ed. 86; Stein v. New York, 346 U.S. 156, 73 S. Ct. 1077, 97 L Ed. 1522.

The appellant asserts that he was held *incommunicado* from the time of his arrest on Thursday, August 7, until August 11. The record does not confirm this contention. It

267 appears that while the appellant was in custody he saw his wife and sister-in-law. There is an absence of testimony that anyone sought to see the appellant and was refused such right, nor does the record show that the appellant requested to see any person and such privilege was refused. It appears that counsel for the appellant fully examined all witnesses and no attempt was made to show that the appellant had been held *incommunicado*.

The appellant also asserts that he was continuously questioned by the officers. This is not confirmed by the record. It does appear from the record that the appellant, after minimum questioning, made an oral confession within twenty-four hours after his arrest. We have heretofore recited the period of questioning and there is no necessity for a repetition of such at this point.

The appellant contends that he was moved from one place to another and finally to a jail in an adjoining county, all in the presence of a large number of officers and under the threat of mob violence. It is true that the appellant was questioned at several different places but it does not appear that this fact in anywise influenced the making of the confessions by the appellant. As to the threat of mob violence, it is a sufficient answer to quote the testimony of the appellant thereabout.

"Q. Were there any people on the outside of the jail that you saw?

"A. No, sir, I didn't see none.

"Q. Any crowd around the jail?

"A. No, sir."

The confession of the appellant is corroborated in a number of details. The appellant says that when he went into the cemetery he saw a car parked and started shooting. The parked car was found in the cemetery at the place pointed out by the appellant and there were bullet holes in the car. The appellant states that he saw the people running towards the gate after he had shot. The evidence is that there were spots of blood found on the old Latta highway. The appellant says in his confession that this woman was standing on the old Latta highway and she was bleeding. The blood spots were found 75 to 100 yards from where the automobile was parked

in the cemetery. The appellant admits in his confession that he went up the sewage line with the deceased. Along this route was found a woman's slip. It had the appearance of having blood on it and a bullet hole through it. It further appears that the appellant, even though he denied it, pointed out the place where he took the life of the deceased. The testimony of the officers confirm the fact that the body of the deceased was found at the place pointed out by the appellant. The appellant says that he was standing behind and about two feet from the deceased while she was sitting on the ground. The physician who examined the body of the deceased said that she had on a dress without any underclothing. He also testified that the deceased had multiple gun shot wounds of the body, one of which entered the skull, another at right angle of the jaw, and the third, the posterior or back aspect of the right thigh. He further testified that the bullet wound of the mouth was laterally started at the right side of the jaw, fracturing the jaw and coming out through the left angle of the mouth. He further testified that whoever fired the shot had to be above the deceased. The appellant also says in his confession that after he shot the deceased that he came out across some fields and finally along a road to Tyler's store, and there he had a white boy call a taxi for him. He says he started walking towards town and met the taxi and was taken home to change his clothes, the taxi waiting while he did this, and then he was transported on to the place where he worked. The taxi driver confirms the receipt of a message to pick up a passenger at Tyler's store and that before he got to the store that he met the appellant walking. The appellant flagged the taxi down and told him that he had called from Tyler's store. The taxi driver testified that he carried the appellant to his home, where the appellant changed clothes. He says that after the appellant had changed his clothes he transported the appellant to his place of employment. He also testified that the appellant's clothes were wet from the knees down." The appellant also, in his second statement, says that he led the officers out of the swamp, through the fields, and up to Tyler's store where he had the taxi called.

The appellant also complains that the officers taking his confessions did not comply with Sections 1–64 and 26–7.1 of the 1958 cumulative supplement to the 1952 Code of Laws of South Carolina.

268 Section 1–64 provides:

"Whenever any person employed by the State or any county, city or municipality thereof, or any part of any such governing body, shall take a written statement in any investigation of any kind or nature from any person, the person receiving or taking the written statement shall give to the person making the statement a copy thereof and shall obtain from the person making the statement a signed receipt for the copy so delivered."

Section 26–7.1 provides:

"No witness in any preliminary hearing or in any criminal judicial proceeding of any kind or nature shall be examined or cross-examined by any examiner, solicitor, lawyer or prosecuting officer concerning a written statement formerly made and given to any person employed by the State or any county, city or municipality thereof, or any part of any such governing body, unless it first be shown that at the time of the making of the statement the witness was given an exact copy of the statement and that before his examination or cross-examination the witness was given a copy of the statement and allowed a reasonable time in which to read it."

The appellant testified that he did not receive a copy of his confessions at the time he signed same. The testimony on behalf of the State was that the appellant was given copies of the confessions at the time he signed same. The confessions themselves admit receipt of the copies. Thus it appears that the question of compliance with Sections 1–64 and 26–7.1 of the Code became a factual issue for the jury to decide. The trial Judge submitted this factual issue to the jury with appropriate instructions thereabout. He likewise submitted to the jury the question of whether or not the confessions of the appellant were freely and voluntarily made. The jury was also instructed that if they were not so made they must be disregarded. He further instructed the jury that if they found as a fact that the confessions were freely and voluntarily made,

and that the appellant had received a copy of same, then they could give to the confessions such weight as the jury deemed proper.

We should point out in connection with the objection made by the appellant to the admission into evidence of his confessions, that the appellant as a part of his defense offered in evidence copies of the confessions which had previously been introduced in behalf of the State. The appellant offered these confessions generally and without any limitation upon his purpose in offering same.

In the case of State v. O'Neal, et al., 210 S.C. 305, 42 S.E. (2d) 523, this Court said:

"An objection to the admission of evidence is waived where the same or similar evidence has been elicited by the objector. 64 C.J., Sec. 193, Page 172. Under this well-known rule, the appellants are in no position to complain of the court's ruling."

We find no error on the part of the trial Judge in admitting as evidence the confessions of the appellant.

The next question for determination is whether the Court committed error in admitting into evidence a slip, dress, and a pocket book and contents.

When the State offered in evidence the slip alleged to be that of the deceased, counsel for the appellant objected to it being described as the property of the deceased. He stated "We have no objection to its being admitted as the slip found in the woods." Thereupon, the following took place:

"The Court: All right, sir.

"Mr. Britt: But we do have objection to the witness' stating who the slip belonged to.

"The Court: It will be admitted as the slip found in the woods.

269 "Motion to Strike—Mr. Britt: Then, if the Court please, we move that his answer as to whose slip it was be striken from the record.

"The Court: The motion is granted."

When the State offered the dress in evidence, counsel for the appellant stated "We have no objection except to the container which has the name upon it." The appellant is not in position to complain of the introduction of the slip and dress as evi-

dence when he expressly consented thereto, as the above quote shows.

The introduction of the pocket book and its contents had a material bearing on the issue involved in the trial of the appellant. It was testified that this pocket book was found in the car in the cemetery. There is evidence that the pocket book and its contents belonged to the deceased. The introduction of this exhibit tended to establish the presence of the deceased in the car in the cemetery. It likewise tended to corroborate the confession of the appellant that the deceased was the "girl" who ran from the car when the appellant fired shots into the car. The admission of this evidence was proper as tending to establish a material fact in the case. We find no error on the part of the trial Judge in admitting the slip, dress and pocket book into evidence.

The appellant alleges that it was error on the part of the trial Judge to admit into evidence a bullet removed from the body of one Jimmy Horne, since such tended to prove the commission of a crime against the said Horne.

A witness, John Bowen, testified that he lived near the Mt. Holly Cemetery and that about 1:35 A.M. on August 3, 1958, Jimmy Horne came to his house and woke him up; that Horne had a bullet wound in his shoulder and blood on his shirt; that the witness and Horne alerted the officers and returned to the cemetery and made a search for the deceased. There was no testimony of any statement made by Horne to the witness. The confession of the appellant says that when he shot into the car which was in the cemetery, two people ran therefrom. He identified one as a "boy" because he says "he heard this girl calling to the boy to wait." What we have heretofore said shows that there was evidence that the deceased was in the cemetery and there was also present an unidentified male. The fact that Horne returned with the witness, Bowen, to the car in the cemetery and was making a search for the deceased, is some evidence that Horne was the one present in the cemetery with the deceased at the time the appellant shot into the car. It is not contended by the appellant that Horne was not present with the deceased in the cemetery.

It appears from the testimony of one Dr. . S. Garner that he removed a bullet from the shoulder of Horne. The testimony shows that the bullet removed from Horne was finally delivered to the witness, M. N. Cate, a ballistics expert with the South Carolina Law Enforcement Division. There was likewise testimony that the pistol which was recovered from the home of the appellant, and admitted by the appellant as being his property, was also delivered to this ballistics expert. Cate testified that he fired test shots into a bullet trap and recovered these test bullets to compare with the bullet removed from the body of Jimmy Horne. He says that as a result of the test so made that the bullet removed from the shoulder of Jimmy Horne was fired from the pistol of the appellant. In this connection we point out that it was also testified that a bullet was removed from the body of the deceased but that it was so badly damaged that the witness Cate could not, with any degree of certainty, testify that it was fired from the pistol of the appellant. This witness did testify, however, that the bullet removed from the deceased was shot from a pistol with the same lands and grooves as the appellant's pistol.

In the case of State v. Thompson, 230 S.C. 473, 96 S.E. (2d) 471, the Court said:

"The general rule is that evidence that the accused has committed another crime independent of, and unconnected with, the one on trial is inadmissible. 22 C.J.S., Criminal Law, para. 682, p. 1084. And especially is this true where the other offense is remote in time. To this rule there are certain exceptions. However, as stated at 22 C.J.S., Criminal Law,
270 para. 683, p. 1091, 'the general rule should be strictly enforced, in all cases where applicable, because of the prejudicial effect and injustice of such evidence and should not be departed from except under conditions which clearly justify such a departure; so, these exceptions should be carefully limited, and their number and scope not increased.'

"The recognized exceptions are set forth in the cases of State v. Gregory, 191 S.C. 212, 4 S.E. (2d) 1, and State v. Lyle, 125 S.C. 406, 118 S.E. 803, 807, as follows: 'Evidence of other crimes is competent to prove the specific crime charged when it tends to establish (1) motive; (2) intent; (3) the absence

of mistake or accident; (4) a common scheme or plan embracing the commission of two or more crimes so related to each other that proof of one tends to establish the others; (5) the identity of the person charged with the commission of the crime on trial.'"

We think that there was no error in admitting into evidence the bullet removed from the body of Horne, even though such tended to prove the commission of a crime against him. The evidence was admissible to prove the identity of the appellant as the perpetrator of the crime charged against him. State v. Gregory, supra, and State v. Pittman, 137 S.C. 75, 134 S.E. 514. The evidence likewise corroborated the confession of the appellant that he was in the Mt. Holly Cemetery and fired shots into the automobile occupied by a man and woman. The shooting of the man and woman occurred at the same time and the proof that the bullet removed from the body of Horne was fired from the gun of the appellant tended to establish the fact that whoever shot Horne also shot the deceased. The evidence also was admissible because it tended to show that the appellant was in the vicinity at the time of the commission of the crime charged. It has also been held by this Court that evidence which is relevant to establish the guilt of the accused of the crime charged is not rendered inadmissible by the fact that it incidentally proves or tends to prove him guilty of another and distinct crime. State v. Gregory and State v. Lyle, supra. We conclude that there was no error in admitting into evidence the bullet removed from the body of Horne because such tended to prove the commission of a crime against him.

When Dr. W. V. Branford was on the witness stand, he testified that on August 3, 1958, he examined the body of the deceased at a furneral home. He was asked by the Solicitor to tell the jury what such examination revealed. In reply, he stated the deceased was twenty-five to thirty years of age, weighing about one hundred pounds, and that when he examined her she was lying on a slab clothed in a dress "without underclothing." He further testified that her body was covered with mud and dirt; that she had multiple bruises and abrasions about her body and multiple gun shot wounds of the body, one of which entered the skull, another the right angle

of the jaw and the third the posterior or back aspect of the right thigh. He further testified that the examination showed that the deceased had a scar on her abdomen as the result of an operation in the past. He further testified that "she also had some serosanguineous, some bloody serous, discharge from the vagina." The appellant asserts that the testimony relative to the deceased being without undergarments and having some discharge from the vagina was prejudicial and was calculated to inflame and prejudice the jury against him.

There was no objection interposed by the appellant to the introduction of the foregoing testimony, nor was the physician cross examined by counsel for the appellant. We consider the question even though timely objection was not made. We have held that in order to constitute reversible error, in the admission of testimony, the accused must be prejudiced thereby, and the burden is upon him to satisfy this Court that there was prejudicial error. State v. Glover, 91 S.C. 562, 75 S.E. 218; and State v. Smith, 230 S.C. 164, 94 S.E. (2d) 886.

The appellant asserts that the admission of the foregoing testimony tended to create in the minds of the jury the inference that the accused had committed the crime of rape upon the deceased. The record is bare of any attempt on the part of the State to show that the deceased had been raped. The record is likewise bare with reference to the vagina of the deceased, other than in the physician's description of her body when he examined it. Taking the testimony, which the
271 appellant alleges to be harmful to him, in connection with the whole testimony of the physician, does not in our judgment create the inference asserted by the appellant. We find no error.

What we have heretofore said disposes of all questions raised by the appellant, but in keeping with our invariable rule of *in favorem vitae*, we have carefully examined the record for any errors affecting the substantial rights of the appellant, even though not made a ground of appeal. We find no such errors.

Judgment of the lower Court is affirmed.

STUKES, C. J., TAYLOR, OXNER and LEGGE, JJ., concur.

272 IN THE SUPREME COURT OF
THE STATE OF SOUTH CAROLINA

PETITION FOR REHEARING—FILED NOVEMBER 27, 1959

To the HONORABLE SUPREME COURT OF SOUTH CAROLINA:

The undersigned attorneys for Quincy Bullock, appellant, do respectfully request a rehearing in the above-entitled case. We respectfully submit that the Court overlooked or misapprehended certain facts and rules of law:

1.

The Court apparently misapprehended and overlooked appellant's claim that the effect of all of the evidence concerning Jimmy Horne was presesnted at the trial was prejudicial against appellant and while he might not have been a defense witness yet appellant should have been given the opportunity to investigate his veracity and the accuracy of testimony given by him at the coroner's inquest. A continuance for that purpose would not have been contrary to the spirit of this Court's opinion in State vs. Livingston, 233 S.C. 400, 105 S.E. (2d) 73.

The Court stated: "The appellant does not contend that he wished to call Jimmy Horne as a witness in his behalf nor that he had made any attempt to interview such witness."

273 We respectfully aver that the Court misapprehended or overlooked defense counsel's sworn statement that they did not perceive appellant's defense until October 15th. They could not have known prior to that time that they needed to investigate Horne's background.

3.

The Court stated: "It appears to us that since counsel for the appellant had been appointed to defend him on August 26, 1958 and received notice thereof on August 28, 1958 * * *" We respectfully submit that the Court apparently misapprehended or overlooked the fact that appellant was committed

to the South Carolina Penitentiary for psychiatric examination for 30 days, commencing on the same day counsel received their notice, and further, that defense counsel were engaged in the preparation of other trials for which they had been compensated.

4.

The Court apparently misapprehended the appellant's position concerning the applicability of State vs. Livingston, 233 S.C. 400, 105 S.E. (2d) 73 to the instant case. Appellant earnestly feels that he demonstrated sufficient reason for the Court to invoke the reasoning which the Court manifested in the Livingston case, to the same extent if not more than the appellant did in the Livingston case.

5.

The court apparently overlooked or misapprehended the unchallenged testimony of appellant's wife (R.p. 167, 171, 172, 174) to the effect that when she saw appellant on Friday afternoon, August 8th, he 'couldn't half walk' and his face was swollen to the extent that his eye was almost closed.

6.

The Court apparently misapprehended or overlooked appellant's assertion that he was continuously questioned and said "this is not confirmed by the record." We submit that on page 99 of the Transcript of Record, Sheriff Jasper D. Rogers, testifying on direct examination, stated that the confessions were the result of several days questioning and interrogation of the defendant.

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7.

The Court, in stating that the record does not confirm appellant's contention that he was held *incommunicado*, apparently misapprehended the treatment accorded this subject by the United States Supreme Court in Chambers v. Florida and other cases dealing with this subject. We respectfully submit that the procedure of not allowing visitors to

persons being held while under suspicion of commission of atrocious crimes has such wide practice that it might properly and appropriately be the subject of judicial notice. We further submit that the Court's observation that the appellant saw his wife while in prison overlooked the fact that his wife was likewise under arrest. We further submit that the Court apparently misapprehended that appellant saw his sister-in-law while under arrest.

8.

Concerning appellant's contention that he was moved from one jail to an older, vacant jail, then to the Judge's Chambers adjoining the Court Room, then to a Motel and finally, to a jail in an adjoining County, the Court apparently overlooked the effect such action has upon the minds of persons in custody when it stated that "it does not appear that this fact in anywise influenced the making of the confessions by the appellant." We further submit that the Court apparently overlooked the testimony of Sheriff Jasper Rogers (R.p. 94) to the effect that two or three hundred persons were gathered around the jail at the time appellant was taken into the Judge's Chambers.

9.

The Court apparently overlooked or misapprehended the fact that neither confession contains any statement that the appellant was warned that what he said might be used against him or of his right to remain silent or of his right to counsel. We respectfully submit that the Court may have overlooked or misapprehended the language of the Court in Harris v. South Carolina, 338 U.S. 68, 93 L. Ed. 1866 as follows: "Petitioner was not informed of his rights under South Carolina law such as the right to secure a lawyer, the right to remain silent" and "his confession does not even contain the
275 usual statement that he was told that what he said might be used against him."

10.

The Court stated that "the confession of the appellant is corroborated in a number of details." We respectfully submit

that the Court apparently misapprehended or overlooked the opinion of the United States Supreme Court in Gallegos vs. Nebraska, 342 U.S. 55, 63, S. Ct. 141 to the effect that "the use of any confession obtained in violation of due process requires the reversal of a conviction, even though unchallenged evidence, adequate to convict, remains."

11.

The Court stated "the appellant testified that he did not receive a copy of his confessions at the time he signed same." We respectfully submit that appellant denied ever receiving copies of the confessions (R.p. 198). The Court further stated "the confessions themselves admit receipt of the copies." We respectfully submit that the Court misapprehended and possibly overlooked the fact that appellant is illiterate.

12.

The Court apparently misapprehended or overlooked the opinion of the United States Supreme Court in United States vs. Bayer, [illegible] U.S. 532 to the effect that "once an accused has confessed, no matter what the inducement, he is never thereafter free of the psychological and practical disadvantages of having confessed."

13.

The Court stated: "We should point out in connection with the objection made by appellant to the admission into evidence of his confessions that the appellant as a part of his defense offered in evidence copies of the confessions which had previously been introduced in behalf of the State. The appellant offered these confessions generally and without any limitation upon his purpose in offering same" and quoted from State vs. O'Neal, et al., 210 S.C. 305, 42 S.E. (2d) 523 to the effect that "an objection to the admission of evidence is waived where the same or similar evidence has been elicited by the objector." We respectfully submit that the Court may have overlooked the cross-examination of the witness, Mr. W. B. Anderson, by Defense Counsel Hawkins on pages 142, 143, 144, 145, 146, 147, 148, 149 and 150, and again on page 153.

276 And on page 105 Mr. Hawkins pointed out to the Court that on the carbon copy it could be determined that certain words were added. Taken as a whole, and since Defense Counsel vigorously objected to the introduction of the confessions into evidence, we respectfully submit that the record indicates that the carbon copies of the confessions were introduced into evidence for the limited purpose of showing that the words "I have received a copy of this—etc." were added to the confessions after they had been removed from the typewriter and reinserted for that purpose. Therefore the Court should not have interposed the rule stated in State vs. O'Neal, et al., 210 S.C. 305 42 S.E. (2d) 523.

14.

The Court apparently overlooked or misapprehended the rule announced in State vs. McNinch, 12 S.C. 89 and State vs. Griffin, 129 S.C. 200, 124 S.E. 81 to the effect that "this Court is bound, in a capital case * * * to take notice in behalf of the accused, of any error apparent upon the record by which the prisoner has been deprived of any substantial means of enjoying a fair and impartial trial" in ruling that it was not error for the Trial Judge to admit the slip and dress into evidence. We respectfully submit that the record does not sustain or establish any probative value in connection with this evidence.

15.

The Court Stated that "The introduction of the pocket book and its contents had a material bearing on the issue involved in the trial of the appellant." We respectfully submit that the Court may have misapprehended the facts concerning this evidence. We submit that the fact that the pocket book and contents belonged to the deceased was of no probative value in determining whether appellant committed the homicide. We further submit that the Court may have misapprehended the probative value of this evidence in corroborating the confession of appellant.

16.

The Court, in ruling that there was no error in admitting into evidence State's Exhibit #13 apparently misapprehended the prejudicial effect of such evidence and of other testi-
277 mony relating to the commission of crime against Jimmy Horne particularly since Horne was not present for cross-examination. We respectfully submit that the Court reconsider its determination that the testimony surrounding the introduction of this evidence violated the rule against hear-say.

The Court apparently misapprehended and overlooked the opinions of this Court in State vs. Green, 227 S.C. 1, 86 S.E. (2d) 598, State vs. Edwards, 194 S.C. 410, 10 S.E. (2d) 587 and State vs. Waitus, 224 S.C. 12, 77 S.E. (2d) 256 in determining that the lower Court committed no error in receiving as evidence the slip, pocket book and contents and the dress of the deceased.

In conclusion

Wherefore, we earnestly request that this Honorable Court grant this humble Petition for Rehearing.

[s] MATTHEW J. PERRY
Spartanburg, S.C.

[s] LINCOLN C. JENKINS, JR.
Columbia, S.C.

[s] DONALD JAMES SAMPSON
Greenville, S.C.
Attorneys for Appellant.

NOVEMBER 25, 1959.

278 IN THE SUPREME COURT OF THE STATE OF SOUTH CAROLINA

(Title omitted.)

CERTIFICATE OF COUNSEL—NOVEMBER 25, 1959

I, Harold R. Boulware, Attorney practicing at the Columbia, South Carolina Bar, do hereby certify that I have studied the Opinion and record in the above captioned matter, together with the attached Petition.

I further certify that I am not concerned in this case and in my humble opinion there is merit in the grounds of the Petition for Rehearing.

[s] HAROLD R. BOULWARE,
Attorney at Law.

NOVEMBER 25, 1959.

279 IN THE SUPREME COURT OF THE STATE OF SOUTH CAROLINA

(Title omitted.)

ORDER DENYING PETITION FOR REHEARING—DECEMBER 14, 1959

We have carefully considered the within Petition for Rehearing. None of the questions referred to in the Petition were overlooked or misapprehended by this Court. The Petition is accordingly denied.

[s] T. H. STUKES, *C.J.*
[s] C. A. TAYLOR, *A.J.*
[s] G. DEWEY OXNER, *A.J.*
[s] LIONEL K. LEGGE, *A.J.*
[s] JOSEPH R. MOSS, *A.J.*

(File endorsements omitted.)

Title omitted.

CLERK'S CERTIFICATION OF RECORD

I, Frances H. Smith, Clerk of The Supreme Court of the State of South Carolina, hereby certify that the documents hereto attached constitute the true and correct record on which the appellant is asking for a writ of certiorari from the Supreme Court of the United States:

1. Transcript of record.
2. Opinion of the South Carolina Supreme Court, which opinion is the final judgment of this Court.
3. Petition for rehearing with order of the Court refusing Petition endorsed thereon.

In witness whereof I have hereunto set my hand and seal this 9th day of March, 1960.

[S] FRANCES H. SMITH,
Clerk, Supreme Court of South Carolina.

281 SUPREME COURT OF THE UNITED STATES

No. 842 Misc.

OCTOBER TERM, 1959

QUINCY BULLOCK, PETITIONER

vs.

SOUTH CAROLINA

On petition for writ of certiorari to the Supreme Court of the State of South Carolina.

ORDER GRANTING MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND GRANTING PETITION FOR WRIT OF CERTIORARI—MAY 2, 1960.

On consideration of the motion for leave to proceed herein in forma pauperis and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed in forma pauperis be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby, granted. The case is transferred to the appellate docket as No. 898.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

U. S. GOVERNMENT PRINTING OFFICE: 1960

FILE COPY
PETITION NOT PRINTED
FILED
SEP 7
JAMES R. BROWNING, Clerk

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1960

No. 78

QUINCY BULLOCK,

Petitioner,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF SOUTH CAROLINA

BRIEF FOR PETITIONER

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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1960

No. 78

QUINCY BULLOCK,

Petitioner,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF SOUTH CAROLINA

BRIEF FOR PETITIONER

Opinion Below

The Opinion of the Supreme Court of South Carolina is reported at 111 S.E. (2d) 657, and is set forth at (R. 261[1]).

Jurisdiction

The judgment of the Court of General Sessions of Dillon County was affirmed by the Supreme Court of South Carolina on November 16, 1959. Rehearing was denied December 14, 1959. Petition for Writ of Certiorari and Motion for leave to proceed in Forma Pauperis was granted May 2, 1960. The jurisdiction of this Court is invoked under 28 U.S.C. Section 1257 (3), petitioner having as-

[1] Page reference "R. ——" are to pages in the printed record.

serted in the Courts below rights, privileges and immunities conferred by the Constitution of the United States.

Question Involved

Whether due process of law guaranteed by the Fourteenth Amendment was denied petitioner, an illiterate Negro, by introduction into evidence of his "confessions" and inculpatory statements made following sustained interrogation in different locations, punctuated by beatings while a sheet was placed over his head, while he was held incommunicado in the Dillon and Marion County jails from August 7, 1958 to August 11, 1958.

Statutes Involved

Constitution of the United States—
Fourteenth Amendment.

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Statement of Case

Petitioner, an illiterate Negro, was arrested by the Sheriff of Dillon County, South Carolina, on August 7, 1958 (R. 86) and questioned about the death of Carolyn Barfield Wolshock who was shot to death on August 3, 1958 in a cemetery on the outskirts of the Town of Dillon

in Dillon County, South Carolina. Petitioner denied commission of the crime (R. 87) and, though he was not charged with same, he was held incommunicado on open charge from the day of his arrest through the following day, during which time he was continuously questioned by several Police Officers in various locations (R. 92, 97, 193, 195). Petitioner was removed from the new jail of Dillon County on the morning of August 8, 1958 and taken to the old jail which houses no prisoners (R. 92, 93). At the old jail, petitioner was questioned at length by several officers concerning the homicide and was brutally beaten while a sheet was placed over his head (R. 195). Later in the afternoon, petitioner was taken from the old jail to the County Court House into the Judge's Chambers adjoining the Courtroom. A crowd of several hundred persons had gathered around the old jail at the time petitioner was transferred to the County Court House (R. 94). After protracted questioning by several officers, petitioner admitted ownership and possession of a .22 Cal. Pistol and was taken to his home where the gun was retrieved. Thereafter, petitioner was taken to a Motel on the outskirts of the Town of Dillon and, finally, into adjoining Marion County to the Marion County Jail where, still in the presence of four or five officers including the Sheriff of Marion County, petitioner "confessed" by saying "if you say I done it, I done it" (R. 97). Petitioner was thereafter further held incommunicado in the Marion County jail until Monday, August 11, 1958 at which time he signed the first inculpatory statement. Thereafter petitioner was taken to the place the crime was committed where he again denied commission of the crime (R. 200). Approximately an hour after signing the first statement, petitioner signed a second statement. Both statements were typed by a deputy sheriff (R. 101). At no time during the entire period of detention commencing with his arrest on Au-

gust 7, 1958 and continuing to August 11, 1958, when the first "confession" was signed, was petitioner advised by counsel, nor advised of his right to counsel; he was not advised of his right to remain silent, or that anything said by him might be used against him; nor was he advised of his right to demand a hearing before the proper State Official. Neither was petitioner taken before a Magistrate and a warrant procured, as required by State statute. Petitioner saw and conversed with his wife briefly on Friday, August 8, 1958 (R. 167, 171, 172, 174), she being also under arrest in connection with the same crime for which petitioner was being held (R. 166). At no other time during said period was petitioner permitted to confer with members of his family or his friends. All of the investigating officers who came in contact with petitioner are white.

At his trial which commenced on October 20, 1958, petitioner's confessions and inculpatory statements were received in evidence over the vigorous objections of His Court appointed Counsel (R. 104). After receipt of this and other evidence, petitioner was found "guilty of [redacted]" and sentenced to die in the electric chair.

In his appeal of said conviction to the South Carolina Supreme Court, petitioner contended by assignment of error, among other things, that the lower Court erred in receiving the confessions as evidence on the ground that they were obtained by duress and coercion and that the use of said confessions as evidence violated petitioner's right to due process of law, protected by the Fourteenth Amendment to the United States Constitution. This and other assignments of error were rejected by the South Carolina Supreme Court as being without merit.

ARGUMENT

Due Process of Law Guaranteed by the Fourteenth Amendment Was Denied Petitioner, an Illiterate Negro, by Introdution Into Evidence of His "Confessions" and Inculpatory Statements Made Following Sustained Interrogation in Different Locations, Punctuated by Beatings While a Sheet Was Placed Over His Head, While He Was Held Incommunicado in the Dillon and Marion County Jails From August 7, 1958 to August 11, 1958.

Petitioner submits that examination of all of the uncontradicted testimony concerning the making of the confessions, the conclusion is inescapable that they were obtained by duress and coercion.

In *Chambers* v. *Florida*, 309 U.S. 227, 60 S.Ct. 472, 84 L.Ed. 716, where a conviction based upon confessions induced by fear and duress was reversed, this Court reemphasized the challenging role of our judiciary in such cases, stating:

> "Under our constitutional system, courts stand against any winds that blow as havens of refuge for those who might otherwise suffer because they are helpless, weak, outnumbered, or because they are nonconforming victims of prejudice and public excitement. . . . No higher duty, no more solemn responsibility rests upon this court than that of translating into living law and maintaining these constitutional shields deliberately planned and inscribed for the benefit of every human being subject to our constitution of whatever race, creed, or persuasion" (at p. 241).

And, in *Blackburn* v. *Alabama*, —— U.S. ——, 4 L.Ed. (2d) 242, 80 S.Ct. 274, Mr. Chief Justice Warren, stated:

"But neither the likelihood that the confession is untrue nor the preservation of the individual's freedom of will is the sole interest at stake. As we said just last term, 'the abhorrence of society to the use of involuntary confessions . . . also turns on the deep rooted feeling that the police must obey the law while enforcing the law; that in the end, life and liberty can be as much endangered from illegal methods used to convict those thought to be criminals as from the actual criminals themselves.' Spano v. New York, supra (360 U.S. at 320, 321). Thus a complex of values underlies the strictute against use by the state of confessions which by way of convenient shorthand, this court terms involuntary, and the role played by each in any situation varies according to the particular circumstances of the case."

Petitioner was arrested by the Sheriff of Dillon County, South Carolina on August 7, 1958 and as late as August 11, 1958, at which time both "confessions" were signed, had not been taken before a Magistrate or Judge. Yet, throughout most of this period petitioner was detained in close proximity of a Magistrate.

It appears that South Carolina does not have a statute requiring that a person arrested by a sheriff without a warrant must be forthwith taken before a Magistrate or Judge, as the Court had before it in *Payne* v. *Arkansas*, 356 U.S. 560, 78 S.Ct. 844, or in *Fikes* v. *Alabama*, 352 U.S. 191, 77 S.Ct. 281. However, there is a South Carolina statutory provision requiring that a deputy sheriff who makes an arrest without a warrant must forthwith take such prisoner before a Magistrate.[2] It is submitted, how-

[2] Section 43-222, Code of Laws of South Carolina, 1952.

"When an arrest is made by a deputy sheriff without a warrant pursuant to Section 53-85 the person so arrested shall be forthwith carried before a magistrate and a warrant of arrest procured and disposed of as the magistrate shall direct."

ever, that it is fundamental in American jurisprudence that a person cannot be unreasonably detained by an arresting officer without the safeguard contemplated by Rule 5 (a) of the Federal Rules of Criminal Procedure, the purpose of which was set forth in *Mallory* v. *United States,* 354 U.S. 455, 77 S.Ct. 1356, quoting *McNabb* v. *United States,* 318 U.S. 332, 343, 344, 63 S.Ct. 608, 87 L.Ed. 819:

> "The purpose of this impressively pervasive requirement of criminal procedure is plain. . . . The awful instruments of the criminal law cannot be entrusted to a single functionary. The complicated process of criminal justice is therefore divided into different parts, responsibility for which is separately vested in the various participants upon whom the criminal law relies for its vindication. Legislation such as this, requiring that the police must with reasonable promptness show legal cause for detaining arrested persons, constitutes an important safeguard—not only in assuring protection for the innocent but also in securing conviction of the guilty by methods that commend themselves to a progressive and self-confident society. For this procedural requirement checks resort to those reprehensible practices known as the 'third degree' which, though universally rejected as indefensible, still find their way into use. It aims to avoid all the evil implications of secret interrogation of persons accused of crime."

The petitioner maintained throughout the trial that he had been severely beaten. His wife testified that when she saw her husband at the jail he showed unmistakable signs of having been beaten.

In the instant case the record discloses many facts, each of which this Court has held to be relevant on the issue of coercion:

(a) It was shown that petitioner is a Negro (R. 75). In ascertaining whether a confession is coerced, this Court gives weight to fact that the accused is a member of an unpopular racial group. *Chambers* v. *Florida, supra; Harris* v. *South Carolina,* 338 U.S. 68, 93 L.Ed. 1815, 69 S.Ct. 357.

(b) It was shown that petitioner is illiterate (R. 140, 197). The degree of education which an accused has had is an important factor in evaluating whether a confession has been coerced. *Ward* v. *Texas,* 316 U.S. 547, 62 S.Ct. 1139, 86 L.Ed. 1663; *Harris* v. *South Carolina, supra.*

(c) Petitioner was held incommunicado from the time of his arrest on Thursday, August 7th until Monday, August 11th, with the exception that he saw and conversed with his wife briefly on Friday, August 8th at the jail, she being also under arrest. Nor, during this period was petitioner taken before a Magistrate and a warrant procured against him. Holding an accused incommunicado and without charge is relevant in determining whether a confession has been coerced. *Fikes* v. *Alabama,* 352 U.S. 191, 77 S.Ct. 281, —— L.Ed. ——; *Harris* v. *South Carolina, supra; Turner* v. *Pennsylvania,* 338 U.S. 62, 69 S.Ct. 1352, 93 L.Ed. 1810; *Stein* v. *New York,* 346 U.S. 156, 73 S.Ct. 1077, 97 L.Ed. 1522.

In *Stein* v. *New York, supra,* Mr. Justice Jackson said:

> "To delay arraignment, meanwhile holding the suspect incommunicado, facilitates and usually accompanies the use of third degree methods. Therefore this Court regards such occurrences as relevant circumstantial evidence in the inquiry as to physical or psychological coercion."

And, in *Fikes* v. *Alabama*, Mr. Justice Frankfurter in a note to his concurring opinion said:

> "Flouting of the requirement of prompt arraignment prevailing in most States is in and of itself not a denial of due process. Cf. McNabb v. United States, 318 U.S. 332, 63 S.Ct. 608, 87 L.Ed. 819. But it is to disregard experience not to recognize that the ordinary motive for such extended failure to arraign is not unrelated to the purpose of extracting confessions."

(d) It was shown that petitioner was continuously questioned by several persons in authority (R. 92, 97, 193, 195). Continuous interrogation has been deemed an important factor in evaluating whether a confession has been coerced. *Chambers* v. *Florida, supra; Ward* v. *Texas*, 316 U.S. 547, 62 S.Ct. 1139, 86 L.Ed. 1663; *Ashcraft* v. *Tennessee*, 322 U.S. 143, 64 S.Ct. 921, 88 L.Ed. 1192; *Haley* v. *Ohio*, 332 U.S. 596, 68 S.Ct. 302, 92 L.Ed. 224.

(e) It was shown that petitioner was moved from one jail to an older, vacant jail, then to the Judge's Chambers adjoining the Courtroom, then to a Motel and, finally, to a jail in an adjoining County, all in the presence of a large number of persons in authority and under the threat of mob violence (R. 92, 93). In determining whether a confession has been coerced, such conduct is considered relevant. *Ward* v. *Texas, supra.*

(f) Petitioner did not consult with a lawyer during the period between August 7th and August 11th and at no time prior to the signing of the "confessions" or the making of the inculpatory statements was he advised of his right to remain silent and demand a hearing. This Court condemned similar conduct in *Harris* v. *South Carolina, supra.*

Petitioner submits that nowhere were procedures and safeguards compatible with the requirements of due process present in this matter.

As was stated in *Payne* v. *Arkansas*, 356 U.S. 567, 78 S.Ct. 851, —— L.Ed. ——:

> "It seems obvious from the totality of this course of conduct—that the confession was coerced and did not constitute an 'expression of free choice,' and that its use before the jury, over petitioner's objection, deprived him of 'that fundamental fairness essential to the very conduct of justice,' and, hence, denied him due process of law, guaranteed by the Fourteenth Amendment."

In the face of this Court's decisions which were cited and reiterated in the Petition for Rehearing (R. 272) the Court below rejected petitioner's assertion that his "confessions" and inculpatory statements were obtained by duress and coercion in violation of the Fourteenth Amendment's command.

Concerning petitioner's assertion that he was held incommunicado from the time of his arrest on Thursday, August 7th until Monday, August 11th, with the exception that he saw and conversed with his wife briefly on Friday, August 8th at the jail, she being also under arrest, the State Supreme Court noted that it did not appear that petitioner requested to see any person and such privilege refused. But the practice of holding suspects in this manner has such wide practice that it might properly be considered the subject of judicial notice. Further, petitioner was transferred to adjoining Marion County, Friday, August 8th, where he remained until Monday, August 11th (R. 92, 93). In light of the fact that petitioner was at least suspected of having committed such an atrocious crime

and had in fact made the first inculpatory statement on Friday evening (August 8th), there is certainly a presumption that he was being held incommunicado.

The Court below conceded that petitioner was moved from the new jail to the older, vacant jail, then to the Judge's Chambers adjoining the Courtroom, then to a Motel and, finally, to a jail in an adjoining County, all in the presence of a large number of persons in authority but concluded that "it does not appear that this fact in anywise influenced the making of the confessions." But it must be obvious that such action on the part of the authorities placed petitioner in such a state of fear that it was virtually impossible for him to remain silent. As was stated by Mr. Justice Frankfurter in *Watts* v. *Indiana*, 338 U.S. 49, 69 S.Ct. 1347, 93 L.Ed. 1801: "There is torture of mind as well as body" and further, "the will is as much affected by fear as by force."

Further, the Court below observed that the confession of petitioner is corroborated in a number of details. But in *Gallegos* v. *Nebraska*, 342 U.S. 55, 63 S.Ct. 141, this Court stated that "the use of any confession obtained in violation of due process requires the reversal of a conviction, even though unchallenged evidence, adequate to convict, remains." And, in *Blackburn* v. *Alabama*, this Court stated: "consequently, we have rejected the argument that the introduction of an involuntary confession is immaterial where other evidence establishes guilt or corroborates the confession. E.g., *Spano* v. *New York*, 360 U.S. 315, 324, 3 L.Ed. (2d) 1265, 1272, 79 S.Ct. 1202."

The evidence touching upon petitioner's assertion of brutality is admittedly in conflict but it is uncontradicted that when his wife saw him on Friday afternoon, August 8th, his face was swollen to the extent that his eye was

almost closed and he "couldn't half walk" (R. 167, 171, 172, 174).[3]

It is submitted that every aspect of the treatment which petitioner received from the time of his arrest on August 7th until he signed the "confessions" on August 11th is found in the leading cases in this Court condemning exaction of involuntary confessions.

The uncontradicted facts shown by the record herein make applicable the conclusion reached in *Chambers* v. *Florida*, 309 U.S. 227, 241, 60 S.Ct. 472, 479, 84 L.Ed. 716:

> "Due process of law, preserved for all by our constitution, commands that no such practice as that disclosed by this record shall send any accused to his death."

[3] Reply testimony offered by the State was to the effect that on Monday, August 11th, petitioner's face was not swollen (R. 236).

Conclusion

The record clearly shows that petitioner's conviction was based upon a confession extorted from him through the use of force, duress and intimidation. The refusal of the Supreme Court of South Carolina to reverse the conviction upon the federal claim properly presented to it constitutes a violation of rights guaranteed petitioner by the Fourteenth Amendment to the United States Constitution.

Wherefore, it is respectfully submitted that the judgment of the Supreme Court of the State of South Carolina should be reversed.

Respectfully submitted,

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Supreme Court of the United States

OCTOBER TERM, 1960

No. 78

QUINCY BULLOCK, PETITIONER,

versus

STATE OF SOUTH CAROLINA, RESPONDENT

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF SOUTH CAROLINA

BRIEF FOR RESPONDENT

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BRIEF FOR RESPONDENT

OPINION BELOW

The Opinion of the Supreme Court of South Carolina is reported in 111 S. E. (2d) 657, and is contained in the printed record at page 261.

JURISDICTION

Petitioner's conviction and the judgment of the Court of General Sessions of Dillon County was unanimously affirmed by the Supreme Court of South Carolina on November 16, 1959. A petition for rehearing was denied on December 14, 1959. Petition for A Writ of Certiorari was served upon respondent on March 10, 1960. Petition for Writ of Certiorari and Motion for leave to proceed *in Forma Pauperis* was granted May 2, 1960. Petitioner invokes jurisdiction under 28 U. S. C., Section 1257 (3).

QUESTION PRESENTED

Whether the introduction into evidence of petitioner's confessions, State's Exhibits Numbers 9 and 10 (R. 254, 255, 256), violated petitioner's right to due process of law under the Fourteenth Amendment to the Constitution of the United States.

STATUTES INVOLVED

Fourteenth Amendment to the Constitution of the United States.

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT

The petitioner was convicted of murder in the Court of General Sessions for Dillon County, South Carolina, and sentenced to death. From this conviction and sentence, and from denial of a motion for a new trial, petitioner appealed to the Supreme Court of South Carolina. That Court considered on the merits all of the questions raised by the appeal, including petitioner's exception to the admission in evidence of State's Exhibits Nos. 9 and 10. These exhibits were confessions by petitioner admitting the crime for which he was tried. The Supreme Court of South Carolina unanimously affirmed the conviction and on December 14, 1959, denied a petition for rehearing.

Carolyn Barfield Wolshock was shot and killed on August 3, 1958. On Thursday, August 7, 1958, at about 5:30 o'clock in the afternoon, petitioner was arrested (R. 86).

On Friday, August 8, in the late afternoon petitioner made an oral confession (R. 87). On Monday, August 11, 1958, petitioner's confession was reduced to writing in two instruments and signed by petitioner at two separate times. These confessions are State's Exhibit 9 (R. 254-255) and State's Exhibit 10 (R. 256).

Testimony of the petitioner and his wife was that physical violence was inflicted on petitioner prior to his confessions, and petitioner asserts that the confessions resulted from this violence. Testimony of the several investigating officers positively denied any physical violence, or that any threat was made or inducement extended. The testimony of a physician who saw petitioner (R. 236) negates any evidence of violence.

Both State's Exhibits 9 and 10 were received into evidence (R. 104), following an extended examination by the Court of the Chief Investigating Officer, the Sheriff of Dillon County, with regard to whether they were voluntary (R. 88-89). This examination was out of the presence of the jury and was followed by an extended cross examination by Defense Counsel (R. 90-98).

After further direct examination of the Sheriff in the presence of the jury (R. 98-101), cross examination by the Defense (R. 101-103), and an explicit charge to the jury by the Court (R. 103-104), the confessions were received into evidence. The charge clearly instructed the jury to disregard the confessions if they found them not to have been freely and voluntarily made. Subsequent to their admission, Deputy Sheriff Harley Allen (R. 137-138) (R. 227-234), and Deputy Sheriff and Clerk W. B. Anderson (R. 138-151), testified that the confessions were freely and voluntarily made. The issue was made when petitioner testified that they were not voluntary (R. 192-209, 224-226). These charges raised sharply conflicting issues of fact and were decided adversely to petitioner by the jury.

At the conclusion of the trial the Court again instructed the jury pertaining to confessions (R. 242-243). The case went to the jury at 4:52 p. m. on October 25, 1958, and the verdict of guilty was returned at 8:55 p. m. .

Petitioner was ably represented at the trial by Court appointed attorneys, Messrs. Herbert Britt and W. B. Hawkins of Dillon, South Carolina.

ARGUMENT

The introduction into evidence of Petitioner's confessions, fairly obtained and voluntarily given, constituted no denial of due process as guaranteed by the Fourteenth Amendment to the Constitution of the United States.

A fair study of the uncontradicted testimony concerning the confessions shows no coercion. The uncontradicted testimony is that Petitioner is a Negro (R. 75, 181), and that he is illiterate (R. 140, 197). All other assertions of Petitioner are sharply and unequivocally contradicted. It is recognized that reversal by this Court on the ground of coercion must be based on undisputed facts. *Gallegos v. Nebraska*, 342 U. S. 55, 63 S. Ct. 141.

Petitioner asserts that he was beaten and thereby forced to confess. A photograph of petitioner taken on the day of his confessions showed no evidence of injury (R. 229, 234). All allegations of brutality were flatly contradicted by Sheriff Rogers (R. 99) and by Deputy Sheriff Allen (R. 228). Dr. W. V. Branford testified that he saw the Petitioner on August 14, 1958, several hours after the confessions were signed, and that there was no evidence of injuries to petitioner (R. 236).

As to petitioner's assertions that he is a Negro and illiterate, this is admittedly true. Certainly these two facts are not enough standing alone to warrant a finding of coercion.

Petitioner's charge that he was held *incommunicado* from his arrest on Thursday, August 7th until Monday, August 11th, is not borne out by the record. He saw his wife at the jail on Friday, August 8th. Shortly thereafter, petitioner and his wife were carried to their home, where she was released. They had an opportunity to converse there and did so (R. 171, 172). Petitioner was in communication with his wife then and could have instructed her to see a lawyer. It is also uncontradicted that he conversed with his sister-in-law, Elva Bethea, on Friday, the day after he was arrested (R. 107). The claim that petitioner was held *incommunicado* without charge falls far short of substantiation. Petitioner's own testimony shows that he knew the charge against him (R. 193). Petitioner's treatment only remotely corresponds to the factual situations set forth in the cases of *Fikes v. Alabama*, 352 U. S. 191, 77 S. Ct. 281; *Harris v. South Carolina*, 338 U. S. 68, 69 S. Ct. 1357; *Turner v. Pennsylvania*, 338 U. S. 62, 69 S. Ct. 1352; and *Stein v. New York*, 346 U. S. 156, 73 S. Ct. 1077, cited in petitioner's brief.

Petitioner's allegation that he was continuously questioned is not sustained by the record. After petitioner's arrest late Thursday, August 8, he was questioned only briefly and not at all that night (R. 90). On Friday morning, August 9, the Sheriff talked to him about five minutes at the jail (R. 91). This was at eight o'clock. Around three o'clock in the afternoon on Friday he was removed to the old jail and questioned for some thirty to forty minutes (R. 93). When some two or three hundred people gathered at the old jail, petitioner was removed to the Judge's Chambers in the Court House and questioned for an hour and fifteen or twenty minutes (R. 94, 95). At this time there were five officers present (R. 94), a reasonable number in view of the gathering of a crowd of two or three hundred outside. About

dark, petitioner was carried to the Marion County Jail in Marion, South Carolina, a distance of some twenty miles from Dillon (R. 95). The officers stopped by Pate's Motel to pick up another officer before proceeding to Marion (R. 95). It is uncontradicted that petitioner was not taken into the motel (R. 95). Petitioner was questioned for twenty or twenty-five minutes in the automobile sitting in the Marion County Jail yard, and then made an oral confession admitting the murder (R. 96, 97). Thus it will be seen that after questioning for a total of some two and one-half hours on four occasions during a twelve-hour period, petitioner confessed. All this occurred on the very next day after his arrest. The Sheriff testified that he talked with petitioner on Saturday and Sunday at the Marion County jail (R. 97). The length of time is not given; however, this was after petitioner had already confessed. On Sunday night petitioner was returned to Dillon, and on the way back volunteered some information as to the location of certain roads in the graveyard where the crime occurred (R. 109). Petitioner signed his written confessions on Monday, August 11, there being no questioning at this time for the purpose of eliciting a confession. Thus, it appears that petitioner confessed the next day after his arrest after total questioning of two and one-half hours, all of it during daylight and early evening hours, and none late at night. Petitioner makes no claim that he was deprived of food or sleep. It can readily be seen that petitioner's interrogation is hardly comparable to that shown in *Chambers v. Florida*, 309 U. S. 227, 60 S. Ct. 472; *Ward v. Texas*, 316 U. S. 547, 62 S. Ct. 1139; *Ashcraft v. Tennessee*, 322 U. S. 143, 64 S. Ct. 921; or *Haley v. Ohio*, 332 U. S. 596, 68 S. Ct. 302.

Petitioner's charge that he was moved around from one jail to another, to the Court House, then to a motel, and finally to the Marion County Jail is closely interwoven with

the charge of continuous interrogation. There is no basis for the charge that he was carried to a motel; as set forth above, the uncontradicted testimony is that a momentary stop was made at a motel (R. 95). Although there is no indication that the gathering crowd made any overtures of violence or in any manner threatened petitioner, it was the Sheriff's duty to guard the petitioner from harm, and this he proceeded to do, in exemplary fashion. The presence of a crowd outside the jail could not have induced the petitioner to confess as he did not know the crowd was present (R. 193). Petitioner's removal to an adjoining County jail was in the interest of protecting him from possible violence.

Due process is not denied by failure to advise a prisoner against self-incrimination nor as to the right to counsel. *Wilson v. U. S.*, 162 U. S. 613.

Petitioner's contention that his arrest was not legal is without evidentiary support; however, if his arrest were illegal, he does not contend that it in any way induced him to confess. The only question before the Court is whether or not the petitioner was improperly induced to confess. There was no unreasonable detention here; Petitioner confessed the day after his arrest. There is no requirement in South Carolina that a person charged with felony be taken before a Magistrate; South Carolina procedure does not require arraignment before a magistrate. *Mallory v. U. S.*, 354 U. S. 455, 77 S. Ct. 1356, and *McNabb v. U. S.*, 318 U. S. 332, 63 S. Ct. 608, are inapplicable here, inasmuch as they turn upon a rule of evidence in Federal Courts. Rule 5 (a) of the Federal Rules of Criminal Procedure is likewise inapplicable, that being the crux of *Mallory v. U. S.*, and *McNabb v. U. S.*, *supra*.

Petitioner has received a fair trial by jury. The jury was fully instructed as to its duty with regard to the confessions (R. 242). Under South Carolina law, they were told

to disregard the confessions if they found them not to be voluntarily and freely given. There is no way to know whether they were found to be voluntary and considered, or involuntary and disregarded. There was, of course, ample evidence otherwise to convict. *Stein v. New York*, 346 U. S. 156, 73 S. Ct. 1077.

The Supreme Court of South Carolina unanimously affirmed petitioner's conviction in a well-reasoned opinion by Mr. Justice Moss. All points raised were thoroughly considered, and, following its doctrine of *in favorem vitae*, the record was carefully examined for any errors affecting the substantial rights of Petitioner, even though not made a ground of appeal. The Court found that petitioner's rights were fully protected, and reiterated its finding on petition for rehearing.

CONCLUSION

There is nothing in the record to warrant a finding of coercion as to petitioner's confessions. Instead, the conclusion is compelled that the confessions were free and voluntary, and that he was accorded every constitutional guarantee.

It is submitted that the judgment of the Supreme Court of South Carolina should be affirmed.

Respectfully submitted,

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SUPREME COURT OF THE UNITED STATES

No. 78.—October Term, 1960.

Quincy Bullock, Petitioner, v. South Carolina.	On Writ of Certiorari to the Supreme Court of South Carolina.

[February 20, 1961.]

Per Curiam.

After hearing oral argument and fully examining the record which was only partially set forth in the petition for certiorari, we conclude that the totality of circumstances as the record makes them manifest did not warrant bringing the case here. Accordingly, the writ is dismissed.